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EDITOR'S NOTE

Welcome to this 2024 Online Issue of *The UST Law Journal*, where we continue our commitment to providing thoughtful and rigorous analysis of the most pressing legal questions of our time. In this edition, we explore a diverse range of topics that reflect the ever-evolving landscape of law, from emerging constitutional debates to the latest developments in judicial reform governance and international human rights.

As we publish this issue, our field is at a critical juncture. Legal practitioners, policymakers, and scholars are grappling with complex challenges—from the intersection of law and critical legal philosophies to the shifting dynamics of ethics, judicial reform, and economic implications in an increasingly globalized world. This journal aims to serve as a forum for cutting-edge research, fostering dialogue among those who seek to understand, shape, and respond to these challenges.

We are particularly excited to feature a series of articles that delve into topics of great contemporary relevance, such as strengthening Filipino's cultural heritage, the governance structure of the criminal justice system and judicial reforms, the evolving narrative on constitutional change, legal-philosophical norms of public morality, and the notion of justice. These contributions advance academic discourse and provide valuable insights for legal practitioners, academe, and jurists navigating the practical realities of law in today's fast-paced, interconnected society.

As always, we are grateful to our contributors for their expertise and dedication and to our Editorial Board for their tireless efforts in bringing this issue to fruition. Through their hard work and commitment, we can continue to produce a journal that meets the highest standards of scholarship and impact.

With its foundational commitment to encouraging broader discussions through diverse legal perspectives, this issue aims to foster deeper insights for the Philippine legal community. We hope this issue sparks thoughtful reflection and inspires new avenues for inquiry in the legal profession. Thank you for your continued readership and support.

Sincerely,

IRENE D. VALONES, DCL, DPA

Editor-in-Chief

December 5, 2024

THE IMPACT OF THE CONTINUOUS TRIAL OF CRIMINAL CASES IN THE PHILIPPINE CRIMINAL JUSTICE SYSTEM: A CRITICAL ANALYSIS

By:

Judge JONATHAN M. AGNES¹

ABSTRACT

“Justice delayed is justice denied” is often the common phrase describing the flow of cases in trial courts in the Philippines, which has been the subject of constant public criticism. The slow grind of the trial court machinery has then made this legal maxim aptly descriptive of the dismal situation obtained at the level of trial courts. The perception of a continuing failure of the Philippine criminal justice system to deliver fast and efficient justice has inevitably led to the erosion of public trust and confidence in the Philippine criminal justice system.

Utilizing the mixed methods of qualitative and quantitative research approach, this paper demonstrated and established that implementing the current rules on Continuous Trial of criminal cases will speed up trial proceedings, which will subsequently eradicate the problem of inordinate delay in resolving criminal cases. In this paper, 2,000 survey questionnaires were distributed among randomly selected judges and legal practitioners from randomly selected regions of the country. The aim is to understand their beliefs, opinions, and views on the impact of the rules on the Continuous Trial of criminal cases in the judicial system of the Philippines to determine whether these rules are effective and beneficial to the speedy disposition of criminal cases and to gauge their perceptions, experiences, and levels of satisfaction with the implementation of the rules on Continuous Trial that will have a bearing on restoring the people’s faith in the judicial system. Upon collation of the data, the findings show that 98.42% of the respondents viewed that the current rules on the continuous trial of criminal cases will result in the speedy resolution of criminal cases. Thus, the implementation of the Continuous Trial in the Philippines restores the people’s trust and confidence in the Philippine criminal justice system and maintains law and order in the country.

Keywords: Inordinate delay, Rules on Continuous Trial of Criminal Cases, Criminal Justice System, Clearance Rates and Disposal Rates, speedy disposition of cases, and judicial reform.

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I. INTRODUCTION

The famous saying “*justice delayed is justice denied*” is often quoted by lawyers to seek for the speedy disposition of criminal cases for their clients. As a matter of fact, the invocation of this legal maxim has been the lamentation of lawyers and litigants when faced with unreasonable delays in the resolution of their cases.² There is even this public belief that inordinate delay has become a common feature in the judicial system of the Philippines. Thus, the dictum “*justice delayed is justice denied*” postulates that an unreasonable delay in the administration of justice constitutes an unconscionable denial of justice.³

An article entitled *Speeding Up Quality Justice*⁴ by Chief Justice Artemio V. Panganiban narrates a story that transpired in a courtroom to illustrate the dismal condition of the Philippine criminal justice, to wit:

A local movie shown a few years ago depicted a courtroom drama of two women who were both claiming to be the mother of the same infant boy. When the father of a child cannot be determined, that is normal. But when two women claim to be the mother of the same child, that is unusual. It is reminiscent of the problem brought to the great, wise King Solomon.

When the case was called for hearing, the judge asked the two claimants to stand up. However, nobody responded. In his irritation, the judge banged his gavel and boomed: “*I am ordering the parties in this case to stand up and approach the Bench.*”

Slowly, an old man of about 75 years with white hair and a frail body limped towards His Honor. The judge was more irritated. “*Hindi po kayo, Lolo. Ang tinatawag po ay iyong dalawang babae na partido dito sa kaso.*” (“Not you Grandpa. I am calling the two women, the parties to this case.”) But the old man did not mind the judge and continued walking towards the Bench. When he was near enough, he said, “*Kagalanggalang na hukom, patay na po ang dalawang babae. Nguni’t partido din po ako rito. Ako po iyong sanggol na pinag-aawayan nila!*” (“Your Honor, the two women are now dead. But I am also a party to this case. I was the baby they were fighting over!”)

Chief Justice Panganiban added that while this fictional story may be funny, it best illustrates the disappointment of many people over the slow delivery of justice in this country. Hence, the perception that there is delay,

² *Alvizo vs. Sandiganbayan*, G.R. No. 101689, March 17, 1993, 220 SCRA 55; *Cadalin vs. Philippine Overseas Employment Administration’s Administrator*, G.R. No. 104776, December 5, 1994, 238 SCRA 7213.

³ *Defensor-Santiago vs. Sandiganbayan*, 408 Phil. 767 (2001); *Dante T. Tan vs. People*, G.R. No. 173637, April 21, 2009.

⁴ *The PHILJA Judicial Journal*, October – December 2001, Volume 3, Issue No. 10.

sometimes unreasonable delay, in the delivery of justice in the Philippines is a given fact.

Numerous studies have already established that the flow of cases in Philippine trial courts, from the time of filing until their final disposition, has been the subject of constant public criticism, considering that it usually takes more than two to three years to terminate criminal cases. Thus, the slow grind of the trial court machinery has made the legal maxim "*justice delayed is justice denied*" aptly descriptive of the dismal situation obtained at the trial courts' level. Unfortunately, the ultimate victims are always the ordinary and poor litigants. It has been ascertained that one of the real culprits is the common practice of piecemeal trial of cases that sets cases for trial one day at a time and thereafter continues or postpones to another date until all the parties have finished their presentation of evidence.⁵

The Supreme Court has the power to promulgate rules concerning the protection and enforcement of constitutional rights, pleading, practice, and procedure in all courts, pursuant to Section 5(5), Article VIII of the 1987 Constitution. However, foremost in the mind of the Supreme Court in promulgating Rules of Procedure is the three-fold mandate that such rules shall provide a simplified and inexpensive procedure for the speedy disposition of cases, shall be uniform for all courts of the same grade, and shall not diminish, increase, or modify substantive rights. By virtue of such rule-making power, the Supreme Court promulgated procedural rules regarding speedy trial and Continuous Trial, the most recent of which is the Revised Guidelines for Continuous Trial of Criminal Cases.

Administrative Matter No. 15-06-10-SC (*Revised Guidelines for Continuous Trial of Criminal Cases*) was promulgated by the Supreme Court on April 25, 2017, and took effect on September 1, 2017. These rules were issued to provide skills development of judges on the innovations and best practices introduced to protect and advance the constitutional right to speedy disposition of criminal cases. The Rules likewise provide for trial techniques, such as: ruling on prohibited motions, addressing dilatory tactics, proper scheduling of cases to comply with the reglementary periods through the use of flow charts, limiting the number of witnesses to be presented, stipulations on the subject matter of the testimony of corroborative witnesses and experts and other witnesses who do not appear to have personally witnessed the crime; use of sworn statements and affidavits in lieu of oral testimony, and other skills intended to expedite the disposition of criminal cases.

Stated otherwise, the guidelines for Continuous Trial aim to expedite trials and resolutions by imposing mandatory observance of existing rules for court action and introducing best practices for the speedy disposition of criminal cases. The guidelines set out strict observance of timeframes on arraignment and pre-trial, trial proper, and promulgation of decisions. To

⁵ Administrative Circular No. 4 dated September 22, 1988 signed by Chief Justice Marcelo B. Fernan.

reiterate, the most basic objective of the rules on Continuous Trial is the speedy disposition of criminal cases. To achieve this goal, the Continuous Trial guidelines provide for a shorter arraignment and pre-trial phase and fewer motions, reducing the average trial duration and increasing case disposal rates. In short, the rules aim to reduce trial time/period. There is this observation, however, that judges, prosecutors, lawyers, and litigants do not comply with the rules on Continuous Trial, resulting in an inordinate delay in the resolution of criminal cases. As a consequence, docket congestions in many of the trial courts in the Philippines persist, the administration of justice is impaired, the right of the accused to a speedy trial is denied, subhuman conditions pervade in detention facilities, and people lose faith in the justice system.

There are, of course, other factors that contribute to the delay in the resolution of criminal cases. Some are institutional like the lack of courts and judges to handle the hundreds of cases filed daily and the shortage of public prosecutors and public defenders assigned to handle cases in courts. At the same time, others are procedural like the issues on the service of court notices, frequent and unnecessary postponements of scheduled hearings, and failure on the part of the courts and litigants to comply with the rules on trial proceedings. Other causes of delay can also be attributed to inefficiencies in government agencies involved in the dispensation of justice, like the prosecution and the police to the lawyers, and some institutional deficiencies like budgetary constraints, delays in judicial appointments, and ineffective inter-agency cooperation, among others.

As such, this paper aims to answer the following research questions: (1) What factors contribute to the inordinate delay in the resolution of criminal cases before the trial courts? (2) How can the current rules on Continuous Trial of criminal cases help in resolving the inordinate delays in courts, improve case disposition rates and reduce average trial duration in trial courts? What are the parameters in determining the effectiveness of the current rules on the Continuous Trial of criminal cases in resolving these inordinate delays? How can the current rules on Continuous Trial of criminal cases help restore the faith of the Filipino people in the justice system of the Philippines and improve the rule of law in the country?

The Filipino people are slowly losing their trust in the Philippine justice system because of the foregoing factors, among others, and the only plausible solution to this problem is to meet this issue head-on. Hence, it is important to introduce reforms geared toward the speedy dispensation of justice in the Philippine justice system. It can never be denied that there is always that possibility that justice will be denied when criminal proceedings drag on because delay, either warranted or inordinate, directly affects the parties to a case and eventually affects the administration of justice itself, as well as society in a wider sense.⁶

⁶ Kourlis, Rebecca Love (2019). Public Trust and Confidence in the Legal System: The Way Forward, September 13, 2019. Institute for the Advancement of the American Legal System (IAALS), University of Denver, Colorado, USA.

Hence, in this paper, the author examines the rules for Continuous Trial of criminal cases to determine their efficacy in resolving the inordinate delays in the disposition of cases pending before the trial courts as it is essential to achieve the main objective of this paper. The paper aims to determine the impact of the rules on the Continuous Trial of criminal cases in the Philippine criminal justice system and analyze the relevance of the Rules in improving the criminal justice system of the Philippines.

II. CONTINUOUS TRIAL: A HISTORICAL BACKGROUND

The Continuous Trial system was first piloted in February 1989 in eighty-one (81) trial courts.⁷ The Supreme Court later issued numerous Orders and Circulars to widen and expedite the implementation of Continuous Trial, which led to its mandatory adoption in all courts nationwide. The policy of Continuous Trial is now embodied in Sections 1 to 10, Rule 119 of the Revised Rules of Criminal Procedure, incorporating the provisions of Republic Act No. 8493 or the Speedy Trial Act of 1998.⁸ In a Continuous Trial proceeding, trial, once commenced, shall continue from day to day as far as practicable until terminated, and may only be postponed for a reasonable period for good cause. After consultation with the prosecutor and defense counsel, the court shall set the case for Continuous Trial on a weekly or other short-term trial calendar at the earliest possible time to ensure a speedy trial. In no case shall the entire trial period exceed one hundred eighty (180) days from the first day of trial, except as otherwise authorized by the Supreme Court. However, the time limitations provided under Rule 119 shall not apply where special laws or circulars of the Supreme Court provide for a longer trial period.

One year after the pilot testing of the Continuous Trial guidelines in criminal cases, the Supreme Court's development partner, The Asia Foundation, reported a significant improvement in the compliance rates of 52 pilot courts with heavy dockets in criminal cases decided before the pilot implementation, and criminal cases being heard under the Continuous Trial guidelines, with respect to the prescribed periods for (a) raffle to arraignment; (b) arraignment to conclusion of pre-trial; (c) trial; and (d) submission for judgment to promulgation thereof.⁹

The Results Analysis of Practice Guidelines Implementation in Quezon City (August 2015) conducted by the American Bar Association

⁷ Report on the Effects of the Continuous Trial System on Litigation Time and Output in the National Capital Judicial Region submitted by the Institute of Judicial Administration U.P. Law Center, Diliman, Quezon City.

⁸ An Act To Ensure A Speedy Trial Of All Criminal Cases Before The Sandiganbayan, Regional Trial Court, Metropolitan Trial Court, Municipal Trial Court, And Municipal Circuit Trial Court, Appropriating Funds Therefor, And For Other Purposes, approved on February 12, 1998.

⁹ June 15, 2017 Report, American Bar Association Rule of Law Initiative (ABA ROLI) Judicial Strengthening to Improve Court Effectiveness (JUSTICE) Program; A.M. No. 15-06-10-SC dated April 25, 2017.

Rules of Law Initiative, as well as the Validation Workshop for the Guidelines on Continuous Trial of Criminal Cases (October 2016) initiated by The Asia Foundation, showed that there was a remarkable improvement in reducing the duration of criminal proceedings and in improving compliance with the reglementary periods set in the Rules of Court and pertinent laws. The Supreme Court then created a Technical Working Group (TWG) under the Special Committee on Speedy Trial, to review the possible consolidation of A.M. No. 15-06-10 dated June 30, 2015, and A.M. No. 11-6-10-SC dated February 21, 2012, and the inclusion of other provisions that would address court delays and docket congestion.

Consultative meetings were conducted among members of the Special Committee on Speedy Trial and its TWG, the Supreme Court Administrator, the Philippine Judicial Academy, and the Philippine Mediation Center regarding the plan to consolidate A.M. No. 15-06-10 and A.M. No. 11-6-10-SC, and the possible insertion of some provisions that would facilitate speedy trial. The Supreme Court En Banc likewise deliberated on this matter for four (4) months starting January 2017. Finally, on April 25, 2017, the Supreme Court issued a Resolution approving Administrative Matter No. 15-06-10-SC or the Revised Guidelines for Continuous Trial of Criminal Cases, which took effect on September 1, 2017.

It is significant to note that the Revised Guidelines for Continuous Trial of Criminal Cases is a consolidation of the Supreme Court's numerous circulars, administrative orders, and issuances on Continuous Trial, intended to supplement but never to amend or revise provisions of the Rules of Court. More importantly, it is geared toward the skills development of judges on the innovations and best practices introduced to protect and advance the constitutional right to speedy disposition of criminal cases. The said guidelines also provide for trial techniques, such as: ruling on prohibited motions; addressing dilatory tactics; proper scheduling of cases to comply with the reglementary periods through the use of flow charts; limiting the number of witnesses to be presented; stipulations on the subject matter of the testimony of corroborative witnesses and experts and other witnesses who do not appear to have personally witnessed the crime; use of sworn statements and affidavits in lieu of oral testimony; and other skills intended to expedite the disposition of criminal cases.

Concededly, the Revised Guidelines for Continuous Trial of Criminal Cases is a work in progress. While it attempts to simplify criminal proceedings by addressing the root causes of delay in the administration of justice and docket congestion, it does not purport to be a panacea that will provide complete resolution of problems facing the administration of justice. The Supreme Court has anticipated some apprehensions and reservations on the part of the parties, especially those courts with heavy dockets and those in the provinces where the judicial stations are far from the cities or situated in islands and other remote areas.

III. A. FACTORS THAT CONTRIBUTE TO THE INORDINATE DELAY IN THE RESOLUTION OF CRIMINAL CASES BEFORE THE TRIAL COURTS.

Almost all of the respondents of the study revealed that there is an unwarranted delay in the resolution of criminal cases before the trial courts in the Philippines. The rest of the respondents believe that while there may be delays in resolving criminal cases before the trial courts, these delays are not “unreasonable” but due to reasons beyond the control of the courts and the parties, like force majeure such as typhoons and floods, emergencies like power interruptions, illness on the part of court personnel and parties to the litigation, witnesses who are present but not ready to testify due to valid reasons, and similar circumstances.

A majority of the respondents pointed out that the piecemeal trial of cases is one of the major factors that contribute to the unreasonable delay in resolving criminal cases. Respondents posit that this common practice of piecemeal trial of cases, which sets cases for trial one day at a time and thereafter continues or postpones to another date until all the parties have finished their presentation of evidence, is the major culprit in the slow grind of the trial court machinery. This also makes the legal maxim "*justice delayed is justice denied*" aptly descriptive of the dismal situation obtained in trial courts all over the country. The respondents likewise believe that the heavy caseloads of courts also contribute to the delay in resolving criminal cases before the trial courts. It is an admitted fact that the overriding problem in trial courts is the high volume of cases. With the ongoing “war on drugs” campaign of the government, court caseloads have been steadily increasing, which further causes delays in processing and resolving cases. The same number of respondents considered the lack of courts that will handle the thousands of cases filed every day as another factor that contributes to the delay in the resolution of criminal cases. Respondents drew attention to the fact that until this time, there are still organized courts all over the country that remain vacant. They also made known their observation that it takes a while for the present administration to appoint judges as compared to that of the previous administrations. Some respondents also mentioned the frequent and unnecessary postponements of hearings as a contributory factor to this delay. They observed that some judges are very lenient in granting requests for postponements. Corollary thereto, respondents cited the inadequate preparation by the prosecutor and defense counsels as reasons why scheduled hearings are postponed, thereby delaying the speedy disposition of cases.

There were respondents who thought that the delay in the resolution of criminal cases was caused by the non-compliance by judges, prosecutors, and lawyers with the rules on Continuous Trial. Some of them also observed the lack of familiarity by the courts and counsels with the new innovations and issuances by the Supreme Court, thus prompting the courts and parties to postpone scheduled hearings in order to seek clarifications from experts and authorities regarding the issue at hand. Moreover, respondents revealed

that the tardiness of judges, prosecutors, lawyers, and litigants in attending scheduled hearings contributes to the delay in resolving criminal cases. They also pointed out the lack of resources and personnel in courts as another reason for this delay. Some respondents further touched on the problems with the service of summons and subpoenas as another reason why delay is prevalent in the resolution of criminal cases. They pointed out that the lack or absence of witnesses is the usual reason why scheduled hearings are postponed. This usually happens either because the witnesses are not properly notified of the scheduled hearings or are not notified at all. However, there were respondents who believed that the absence of witnesses during trials is either wilful or intentional, or part of the dilatory tactics of defense counsels. Finally, some respondents declared that judges, prosecutors, and PAO lawyers are attending too many seminars or trainings, resulting in the postponement of trials previously scheduled. Respondents suggested synchronizing the schedules of these seminars so as not to unjustly affect the scheduled hearings of cases, which, in turn, is prejudicial to the right of the accused to a speedy trial. Some of these respondents also mentioned the delay or even failure of the prosecution to present object and documentary evidence on time, which resulted again in the postponement of trials.

On the possible impact of unnecessary delays in the resolution of criminal cases on the country's criminal justice system, almost all respondents declared that justice will be denied to those who deserve it when criminal proceedings drag on. In fact, some people are discouraged from going to court because of the expense involved and are worried about the length of time it takes to obtain justice. If this perception persists and goes unchecked, it is not far behind that the people's trust and confidence in the justice system will diminish.

A majority of the respondents believe that trial delay will increase the number of remand prisoners and cause overcrowding in detention facilities. It is a fact that detention facilities all over the country are overpopulated, and one of the factors that contributes to this dismal condition of jails is the delay in the processing and termination of criminal cases. Others opined that delay in trial proceedings will result in the collapse of law and order as victims will try to settle their disputes on their own or resort to extra-judicial means, and the offenders will be encouraged to resort to more violent crimes since their criminal acts remain unpunished. There were also respondents who are convinced that people will no longer believe that courts can vindicate their legal rights from fraud and over-reaching, that the law cannot fulfil its primary function to protect them and their families in their homes, at their work, and anywhere else because the wheels of justice are turning in a slow pace. Finally, there were respondents who were worried the protracted trials would result in increased litigation costs.

IV. CONTINUOUS TRIALS OF CRIMINAL CASES IN THE RESOLUTION OF INORDINATE DELAYS.

A majority of the respondents are optimistic that the implementation of the rules on Continuous Trial will result in the speedy resolution of cases because the judges will now have full control of the proceedings. The judges can now check and monitor the dilatory tactics that may be employed by parties to a litigation, including unnecessary requests for postponements and continuance. Moreover, under the said rules, judges are directed to resolve cases within a specific period of time. These respondents then suggested that judges censure or remind lawyers to ask only relevant and pertinent questions during trials and to avoid grandstanding, for such results only in protracted trials or proceedings. There were respondents also who advocated that all stakeholders, particularly the courts, should strictly comply with the rules on Continuous Trial, specifically on the provisions pertaining to the oral Formal Offer of Exhibits, simultaneous arraignment and pre-trial, one-day-one witness rule, and the specified period within which to decide cases, among others. They are of the opinion that strict compliance with these features of the rules will speed up trial proceedings. However, there were respondents who believe that as long as judges, prosecutors, lawyers, and litigants do not come to court on time; the problems with the service of court processes are not resolved; judges are lenient in granting postponements; and the shortage of courts and personnel is not addressed, the delays encountered in resolving criminal cases will persist.

Almost all of the respondents are convinced that the speedy resolution of criminal cases will mean high case disposition rates in trial courts. High disposition rates, in turn, will mean lower average caseloads for the trial courts nationwide. A majority of these respondents are also of the belief that lower caseloads will mean lower case backlogs for trial courts since cases can now be resolved within a shorter period of time as compared to before. They are confident that with trial courts having lower caseloads, trial durations will now be shortened. This will result in the speedy disposition of cases and handing out of quality and righteous decisions. Further, most of the respondents submit that having a high case disposition rate in trial courts is an indication that the current rules on Continuous Trial are effective in resolving the problem of delay in the resolution of criminal cases. This is a tell-tale sign that the said rules bring about a swift and judicious delivery of justice. The same number of respondents agree that having a high disposition rate will mean lower average caseloads for the trial courts since the possibility is greater that case outflow will be higher than case inflow instead of the other way around. In addition, a majority of the respondents are also convinced that lower caseloads would mean lower case backlogs for trial courts. This is primarily because criminal cases can now be resolved and terminated with dispatch. With lower caseloads, trial courts will now have sufficient time to handle cases leading to the efficient and effective dispensation of justice. With the speedy disposition of cases due to the implementation of the current rules on Continuous Trial of criminal cases, the people's trust and confidence in the criminal justice system will be restored. Since the confidence of litigants in the justice system is anchored

on the expeditious and impartial resolution of cases, the timely disposition of their cases will enable them to continue to trust the justice system. Data further shows that a majority of the respondents are likewise certain that the rules will speed up the wheels of justice and will prove to the people that the courts are committed to seeing that justice is served. The people will have a notion that the courts are serious in performing their work for the prompt and efficient administration of justice. Further, the majority of the respondents are confident that when justice is delivered without delay, people will begin to believe that justice can indeed be attained. The people will have more faith in the justice system as well as in the rules of procedures. The people will have renewed faith in the criminal justice system when they feel that greater attention and prompt response are being directed to address their grievances. The same number of respondents posited that the prompt resolution of criminal cases would address the common notion of justice delayed being justice denied and that the impression that the Philippine justice system is slow would be eradicated. This is primarily because immediate results give satisfaction whereas delays breed distrust and discontent. Some respondents also believe that the proper implementation of the rules will bolster the belief that even judges and officers of the court are not above the law.

There were respondents, however, who are of the opinion that the current rules on Continuous Trial of criminal cases will address the issue on the "faith" of the people in the justice system but not that long. They argue that as long as the proportion of cases versus the number of judges is not addressed immediately, the objective of the rules will not be achieved. In fact, some of these respondents are of the impression that the rules are not strictly followed and that the rules are very hard to implement given the case congestion in courts. Other respondents also submit that there is danger in the quality of justice to be delivered since the parties and counsels may not be able to present fully their respective evidence in view of the limited period and the court may be time pressured in receiving evidence and resolving cases. They are concerned that in their desire to comply with the rules, the courts and counsels may unwittingly overlook the merits of the case and will hastily terminate the proceedings. It will result in certain instances where quantity over quality is prevalent. Likewise, some respondents are sceptical since they consider the rules as merely procedural. They argue that reforms in the country's judicial system must start from the grassroots level: from the barangay and prosecutorial level, and all other condition precedents that go with it. They are apprehensive because the present administration, for years, has promoted a culture of impunity and too many out-of-the-box means of resolving cases, such as but not limited to the Tulfo Court and *Tokhang*, and the common masa has already bought into them. They lament this form of cheap exploitation of the masses and insensitivity toward life, all at the expense of due process. The same respondents also submit that the speedy disposition of cases is but one aspect of the justice system. The impression that the rich and powerful can easily escape from the clutches of the law while the poor and the powerless are the only ones being prosecuted, plays a bigger factor in the loss of faith in this system. Further, with the majority

of cases at present being drug-related, with most of the accused opting for plea bargaining just to avoid prolonged incarceration, despite not being legally arrested in the first place, it would be a tall order to restore their faith in the justice system.

All of the respondents are convinced that the rules on Continuous Trial of criminal cases will help maintain law and order in the country. They are positive that the rules will help restore the trust and confidence of the people in the criminal justice system of the Philippines. Most respondents are likewise confident that more people will now seek redress through the courts instead of resorting to extra-judicial means. Victims and offended parties will now bring their cases to courts and not try to settle their disputes on their own because of the assurance of prompt retribution. Meanwhile, criminals and offenders will be dissuaded from committing more crimes out of fear of swift punishment. Some respondents also agree that the speedy resolution of criminal cases will serve as a deterrent to those intending to violate the law, provide recompense and closure to the victims of those who violate the law, and give a chance to those convicted of violating the law, to face the consequence of their action and redeem themselves in society. The same respondents submit that the people will now be convinced that courts can vindicate their rights and protect their grievances and that the law can fulfil its primary function to protect them and their families in their homes, at their work, and anywhere else. However, some respondents are apprehensive that until such time that complete and truthful reforms in the country's justice system are made, the rule of law in the country will always be precarious. They maintain this impression because they observed that the present administration, for years, has promoted a culture of impunity and too many out-of-the-box means of resolving cases, such as but not limited to the Tulfo Court and *Tokhang*, and the common *masa* has already bought into them. They are afraid that this form of cheap exploitation of the masses and insensitivity toward life, all at the expense of due process, hinders the establishment of a solid and lasting rule of law in the country.

V. PRELIMINARY OVERVIEW AND PROPOSALS

All respondents are urging for the appointment of more judges, trial prosecutors, and public defenders as soon as possible. The numerous vacancies in these posts that play vital roles in the criminal justice system of the country are impinging on the efficient and effective delivery of justice. These respondents even insist on one public prosecutor and one public defender per court composition. This ensures prompt and Continuous Trial proceedings since all the principal actors in a trial are always present. At present, some courts are sharing their public prosecutors and public defenders with several courts, causing delays in processing and terminating trial proceedings. Relative thereto, the same respondents are moving for the creation of more courts, particularly in provinces or areas with large case dockets in order to handle the thousands of cases filed daily. Recognizing the propensity of Filipinos for litigation, these additional courts will help

ease the burden of the existing courts and will likewise help dispense quality justice for those who deserve it promptly and efficiently. All the respondents are also recommending that vacancies in courts, the prosecutor's office, and the Public Attorney's Office (PAO), particularly support staff and personnel, must also be filled up to guarantee the expeditious processing of documents in these offices. It is well noted that hitches in the documentation in these offices also contribute to the delay in trial proceedings.

Moreover, a majority of the respondents insist that the Rules of Court, particularly the rules on Continuous Trial of trial cases, must be strictly implemented and complied with and that heavy penalties should be imposed on the parties who will not comply with them, including judges. These respondents are one in saying that among the rules, the One-Day Trial Rule is the one that all parties must comply with if delays in trial proceedings are to be averted. They also pointed out that courts must shun unnecessary postponements as much as possible and observe the periods prescribed in resolving incidents. Courts must also compel the attendance of material witnesses or otherwise waive their presentation as witnesses if warranted under the circumstances. They also suggested that there should be substitutes or alternates for public prosecutors and public defenders to avoid unnecessary postponements of trials. All of the respondents are in unison in suggesting that the Supreme Court should take advantage of the current technology to improve the judicial system of the country. While they laud the Supreme Court for institutionalizing video conferencing in conducting hearings and the electronic service of summons and court processes, they ask the Supreme Court to explore other areas of the judicial system where digital technology can be applied and utilized. A majority of the respondents are calling on the Department of Justice, particularly the public prosecutors who are handling inquest proceedings, to observe a more stringent preliminary investigation process. They advise these public prosecutors to approve for filing only those meritorious cases brought before them, and not every complaint filed before their office. They lament that even those cases that are, on their face, clearly without merit still find their way into courts only to be dismissed for lack of probable cause or the accused acquitted for lack of evidence. Some respondents suggested that the Supreme Court should develop more effective discovery procedures, particularly those that will help shorten the period of litigation and speed up adjudication effectively. It is their submission that the rationale behind the recognition accorded the modes of discovery is not only to enable a party to discover the evidence of the adverse party, but also to facilitate an amicable settlement if there are no contentious issues involved, or to expedite the trial of the case once the issues and concerns of the parties are simplified. Some respondents suggest that the Supreme Court make alternative dispute settlement (ADR), mediation, and other forms of dispute settlement compulsory in cases that are subject to settlement, and impose hefty penalties on non-complying parties. Another group of respondents likewise proposed that the Supreme Court conduct judicial audits more often than its usual semestral audits. By doing so, pending incidents in courts will be monitored and resolved within the periods prescribed, contributing to the speedy disposition of cases in

courts. Respondents also suggested expanding the jurisdiction of the first-level courts to ease up the dockets of the second-level courts. They have observed a great disparity between the dockets of the first-level courts and the second-level courts when compared with each other. This expansion of jurisdiction, according to them, should not only be limited to jurisdictional amounts but should also include the classification of offenses.

Lastly, some respondents suggested that practicing lawyers should look for partners, collaborating or otherwise if they are not available for a specific trial date to avoid postponements. While these respondents appreciate the efforts of some judges in appointing as counsel de officio the court's public defender just for the scheduled trial to proceed, this arrangement, however, denies the accused effective representation because the public defender is not knowledgeable of the accused's case. More often than not, the public defender will just move for a continuance if it is already the turn of the accused to present evidence or conduct a cross-examination, citing either lack of preparation or authority to represent the accused since the accused has a counsel on record. Either way, the disposition of the case is still delayed.

VI. ANALYSIS AND DISCUSSION

In its common meaning, inordinate delay connotes an excessive or unusual pause or interval in a particular procedure or process. But in legal parlance, the inordinate delay is a doctrine that means that if the case takes too long to investigate, it is considered a violation of the right of an accused to a speedy resolution, and will result in the dismissal of the complaint against the accused.¹⁰

The Supreme Court applied the foregoing doctrine of inordinate delay in numerous cases over the years. However, in the recent cases of *Cagang vs. Sandiganbayan et al.*¹¹ and *People vs. Sandiganbayan et al.*¹², the Supreme Court clarified and updated the definition of inordinate delay. In its twin rulings, the Supreme Court still recognized that every accused has the right to due process and to speedy disposition of cases and that inordinate delay in the resolution and termination of a preliminary investigation will result in the dismissal of the case against an accused. However, it ruled that delay "*is not determined through mere mathematical reckoning but through the examination of the facts and circumstances surrounding each case. Courts should appraise a reasonable period from the point of view of how much time a competent and independent public officer would need in relation to the complexity of a given case. If there has been delay, the prosecution must be able to satisfactorily explain the reasons for such delay and that no prejudice was suffered by the accused as a result.*

¹⁰ *Tatad vs. Sandiganbayan*, 242 Phil. 563 (1988).

¹¹ G.R. Nos. 206438, 210141-42, July 31, 2018.

¹² G.R. No. 231144, February 19, 2020.

Nonetheless, the accused must invoke his or her constitutional rights in a timely manner. The failure to do so could be considered by the courts as a waiver of right."¹³

For purposes of this paper, the inordinate delay is understood as the delay in the aggregate amount of time that passed between the filing and the disposition of a particular case. It is that amount of time, either between specific critical events in the case flow process, or between the initiation and disposition of a case, which exceeds tolerable or expected periods.¹⁴ In particular, the concept of inordinate delay, as employed in this paper, pertains to the unwarranted delays in the flow of cases in the trial courts from the time of filing until their final disposition. These delays may be attributable to institutional and procedural imperfections, but what is certain is that trial periods in the Philippines are exceedingly long. There is an inordinate delay if the proceedings are "*attended by vexatious, capricious, and oppressive delays; or when unjustified postponements of the trial are asked for and secured, or when without cause or unjustifiable motive, a long period of time is allowed to elapse without the party having his case tried.*"¹⁵

Unwarranted delay haunts the administration of justice, for it postpones the rectification of a wrong and the vindication of the unjustly accused. It also crowds the dockets of the courts, sometimes pressuring judges to take shortcuts and, in the process, disrupting the prompt and deliberate disposition of those cases in which all parties diligently prepared for trial. Possibilities for error may sometimes multiply rapidly as time elapses between the original fact and its judicial determination. Thus, if the facts are not fully and accurately determined, then even the wisest judge may fail to distinguish between merit and demerit. If judges do not get the facts right, there is this slim chance for the judgment to be right.¹⁶

Inordinate delay is pervasive in the resolution of criminal cases before the trial courts in the Philippines. This finding supports the universal belief that the wheels of justice grind slow in almost all jurisdictions in the world — that the unwarranted delay in the resolution of criminal cases before the trial courts is predominant in all countries in the world, from the developing ones to the first-world countries.¹⁷ In fact, the perennial problem of delays and docket congestion in many of the trial courts in the Philippines remains unabated. The tragic results of these problems are undeniable: the administration of justice is impaired, the right of the accused to a speedy trial is denied, subhuman conditions pervade in detention jails, and people lose

¹³Ibid.

¹⁴ Trotter, Joseph, Jr. A. & Cooper, Caroline S. (1982). State Trial Court Delay: Efforts at Reform, The American Law University Law Review.

¹⁵ Ty-Dazo vs. Sandiganbayan, 424 Phil. 945, 950-951 (2002).

¹⁶ Southern Pacific Transportation Co. vs. Stoot, 530 S.W. 2nd 930 (1975), Supreme Court of Texas.

¹⁷ Supreme Court National Survey On Users' Experience and Perception on the Judiciary, Volume 1, Final Report, August 2006, SAGRIC International Pty. Ltd. (SAGRIC), A Coffey International Limited Company; supra; Abeline Dorothea Reiling, Technology for Justice: How Information Technology Can Support Judicial Reform, © A.D. Reiling/ Leiden University Press, Amsterdam, 2009.

faith in the justice system.¹⁸ This inordinate delay is attributable to several factors, one of which is the usual practice of trial courts of having a piecemeal trial of cases, with evidence being heard in a series of short appointments over an extended period of time, rather than as continuous oral proceedings. They lament that the courts' method of setting cases for trial one day at a time and thereafter continuing to another date until after all the parties have completed their presentation of evidence plays a big role in the slow grind of the trial court machinery.¹⁹ This is contrary to what should be practiced by the trial courts of having realistic calendar settings or firm trial dates by scheduling cases that could only be heard for trial on any given date to avoid or limit the grant of continuances. There is also this practice of many judges of scheduling more cases for hearing that can be realistically heard in the hope that should there be postponements, enough cases would be ready, and thereby enabling them to maximize the use of time. The current practice of judges, particularly in high caseload courts, is to schedule at least twenty (20) cases for hearing per day. However, the average daily hearing hours of judges is only five (5) hours. It would be thus physically impossible to complete the scheduled twenty (20) cases for hearing a day.²⁰

Lawyers contend that this method of over-scheduling hearings and trials results in unmitigated loss of time on the part of the parties concerned, the witnesses, and lawyers who are compelled to spend hours, and even days, idly waiting for their turn to be heard. The eroded credibility of the hearing schedules might have further contributed to the reasons for the non-appearance of lawyers, parties, and prosecutors and consequently also contributed to the delay in resolving these cases.²¹ The heavy caseload of courts is another contributory factor to the delay in resolving criminal cases. The Philippine courts suffer from longstanding problems of clogged court lists, slow processing of cases, and consequent lack of confidence in the court system to resolve disputes or deal with criminal offenses in a timely or cost-effective fashion. Statistics show an increasing number of cases filed, combined with static or decreasing disposition rates, resulting in ever-growing backlogs in almost all courts.²²

Data from 2016 to 2020 on case inflow for trial courts, as reported in the Supreme Court Annual Reports, shows that from December 31, 2016, to December 31, 2020, there has been a steady increase of newly filed cases before the trial courts all over the country. This is indicative that people are going directly to the courts to seek redress instead of settling their disputes beforehand. This, in turn, increases the already clogged dockets of the courts and causes further delays in the resolution of cases pending before them.

¹⁸ Chief Justice Diosdado M. Peralta, Training Seminars on the Revised Guidelines for Continuous Trial of Criminal Cases 2018.

¹⁹ SC Administrative Circular No. 4, September 22, 1988.

²⁰ Feliciano, Myrna, and Muyot, Alberto (2000). *The Philippine Criminal Justice System*, PHRD Grant, World Bank and Supreme Court of the Philippines.

²¹ *Supra*.

²² Hunter, Rosemary (2002). *Reconsidering 'Globalisation': Judicial Reform in the Philippines*, Law Text Culture, Volume 6 Legal Intersections, January 2002, University of Wollongong, Australia.

With more cases filed before the trial courts, coupled with the shortage of courts and judges to handle and resolve these cases, further delays in the resolution of criminal cases are to be expected.

Clogged dockets are due to the indiscriminate filing of cases. A high proportion of cases go to courts instead of being settled elsewhere. As observed by Chief Justice Fred Ruiz Castro, the overcrowding of court dockets is attributable to what he calls the “*over-use, misuse and abuse*” of the judicial remedy. This means that a person seeking redress of a grievance has gone directly to court when it probably would have been more practical to have availed of other modes of dispute resolution. Chief Justice Castro hypothesizes that litigation-prone lawyers have the courts as the place of initial settlement rather than the ultimate place of dispute resolution that they were originally meant to be.²³

The courts are to be the final and authoritative forum for settling disputes that have suffered from failed earlier efforts for a private solution or adjustment of differences. The family, the church, the school, and the neighborhood associations are supposed to be the traditional counselors for mediating disputes and informally settling them.²⁴ However, as these institutions weakened in their mediational role in the course of society’s modernization, disputants have resorted to the courts as the initial forum, rather than the forum of last resort, for settling their dispute. As a result, court dockets kept increasing, thereby causing further delays in the resolution of pending cases before them.²⁵ Partly to blame for this so-called litigious character of Filipinos is the lack of access to any alternative forum for the settlement of these disputes. While it is true that the Supreme Court has already implemented several mechanisms for mediations and alternative dispute resolutions, still, people are hesitant to avail of these processes for lack of information and understanding on how these procedures work and the benefits that they will derive from all these.²⁶ The shortage of courts and vacancies in courts also contribute to the delay in the resolution of criminal cases. The total numbers of newly filed cases and pending cases in courts have continued to rise steadily over time and this causes court congestion leading to severe delays in case resolution and high levels of backlog. Thus, the appointment of new judges and the creation of additional trial courts will surely help address this problem.

On August 30, 2019, Republic Act No. 11459, otherwise known as the Judges-at-Large Act of 2019, was approved, and this amended the provisions of Sections 14(n) and Section 25-A of Batas Pambansa 129, also known as The Judiciary Reorganization Act of 1980. Republic Act No. 11459 authorized the creation of One Hundred (100) positions of Regional Trial Judges-at-Large

²³ The PHILJA Judicial Journal, July – December 2005, Volume 7, Issue No. 24, The Commitment to Judicial Education.

²⁴ Tadiar, Alfredo F. Unclogging The Court Dockets, Paper presented in the Symposium on Economic Policy Agenda for the Estrada Administration, June 1, 1999 at INNOTECH, Commonwealth Avenue, Diliman, Quezon City.

²⁵Supra.

²⁶Ibid.

and Fifty (50) positions of Municipal Trial Judges-at-Large. Under the law, these Judges-at-Large have no permanent courts and may be assigned by the Supreme Court as acting or assisting judges in any regional trial court or municipal trial court as public interest may require. The Supreme Court shall determine the length of their temporary assignment, after which the Judicial and Bar Council (JBC) may recommend to the President their appointment as regular RTC or MTC judges. They are entitled to their regular counterparts' salaries, privileges, allowances, emoluments, benefits, rank, and titles. These "*roving judges*" are expected to address the worsening docket load in the lower courts and build trust and confidence in the judicial system. The people are hopeful that the full implementation of Republic Act No. 11459 will ease the burden of the judiciary and will help unclog the dockets of the courtrooms in the Philippines. In fact, this law is considered a welcome development to litigators and litigants alike. The availability of Judges-at-Large will ensure that they can secure judicial relief, even in the absence of the judges assigned to their cases. They are also hoping that the frequent postponements of hearings will be a thing of the past, as there will be Judges-at-Large who will be available to substitute judges who are either ill, absent or on leave.²⁷

A. NON-COMPLIANCE ON THE COURTROOM PRACTICES BY JUDGES, PROSECUTORS, AND LAWYERS

Another cause of delay in the resolution of criminal cases is the non-compliance by judges, prosecutors, and lawyers with the rules on Continuous Trial. It is worthy to emphasize that the rules on Continuous Trial were implemented to facilitate the expeditious resolution of criminal cases in trial courts. Hence, failure on the part of judges and lawyers to comply with the said rules will definitely result in delays in resolving these cases. Administrative Matter No. 15-06-10-SC, or the Revised Guidelines for Continuous Trial of Criminal Cases, was promulgated by the Supreme Court on April 25, 2017, and took effect on September 1, 2017. These rules were issued to provide skills development of judges on the innovations and best practices introduced to protect and advance the constitutional right to speedy disposition of criminal cases. The rules likewise provide for trial techniques, such as: ruling on prohibited motions, addressing dilatory tactics, proper scheduling of cases to comply with the reglementary periods through the use of flow charts, limiting the number of witnesses to be presented, stipulations on the subject matter of the testimony of corroborative witnesses and experts and other witnesses who do not appear to have personally witnessed the crime; use of sworn statements and affidavits in lieu of oral testimony, and other skills intended to expedite the disposition of criminal cases. Stated otherwise, the guidelines for Continuous Trial aim to expedite trials and resolutions by imposing mandatory observance of existing rules for court action and introducing best

²⁷ Explanatory Notes of Senate Bill No. 2065 proposed by Senators Juan Edgardo M. Angara, Sherwin T. Gatchalian, Richard J. Gordon, and Loren B. Legarda.

practices for the speedy disposition of criminal cases. The guidelines set out strict observance of timeframes on arraignment and pre-trial, trial proper, and promulgation. It is just unfortunate that based on the results of the survey, judges, prosecutors, lawyers, and litigants do not comply with the rules on Continuous Trial, hence the inordinate delay in the resolution of criminal cases. Besides, until now, the Supreme Court has yet to penalize or sanction judges and lawyers who have failed to comply with the rules on Continuous Trial.

The inordinate delay in the resolution of criminal cases is made worse because there are judges, lawyers, and litigants who do not come to court on time for the scheduled hearings. Since the hearings do not start on time, the scheduled presentation of evidence by the parties on that particular day is disrupted and postponed to another date for lack of material time. As such, the schedules of the subsequent hearing dates of other cases will be affected by this continuance, which also has a domino effect on the other schedules. As the cycle continues, it eventually takes its toll on the speedy resolution of cases pending before the trial courts. Problems with the service of summons and subpoenas also play a vital role in the delay in resolving criminal cases. The hearings of cases are usually postponed or cancelled mainly due to the absence of witnesses. This happens either because the witnesses are not properly notified of the scheduled hearings or were not notified at all.

The service of summons and subpoenas has been a perennial problem of trial courts. The strict requirements on proof of service of pleadings, judgments, and other papers taken together with the much-complained-about postal service, are major causes of judicial delay. The snail mail method, whereby paper subpoenas often fail to reach witnesses on time is a primary cause of concern of the courts. Hence, witnesses are not able to receive the subpoenas on time thereby resulting in the absence of vital witnesses during trials. Without these key witnesses, judges are forced to dismiss cases, resulting in the suspects' prolonged detention, which further contributes to jail congestion.

B. E-SUBPOENA SYSTEM AS A REMEDY

To address this problem, the Supreme Court issued Circular No. 244-2017 dated December 21, 2017, which ordered the lower courts that have undergone training to start implementing the e-Subpoena system. This Circular was issued pursuant to the Resolution dated April 1, 2014 of the Court *en banc* in Administrative Matter No. 13-08-03-SC, approving the proposed Memorandum of Agreement for the e-subpoena system between the Supreme Court (SC) and the Philippine National Police (PNP) and the Memorandum of Agreement dated April 30, 2014 between the SC and the PNP whereby both agreed to implement the Electronic Subpoena (e-Subpoena) System in the first and second level courts nationwide.

The e-Subpoena system is a web-based information system that speeds up the transmittal of court subpoenas and notices to the police witnesses and the units where they are currently assigned. The system particularly addresses police officers who are witnesses in criminal cases in responding to summons issued by the court and is designed to prevent delay in disposition of cases caused by non-attendance of PNP witnesses.²⁸ It is worthy to emphasize that in most criminal cases, the vital witnesses are generally police officers who may have participated in the operation that resulted in the arrest of the accused and the confiscation of contraband and other illegal items from their possession. As such, it is very important to ensure the appearance of these police officers in the scheduled hearings to guarantee a successful prosecution of the cases. According to the guidelines of the “e-Subpoena System”, the PNP will use its Database, particularly its website, in serving subpoenas to police officers appearing or named as witnesses in criminal cases. Through the court administrator, the court will send the various subpoenas to particular PNP units on the PNP-identified website or via e-mail. The assigned court personnel shall enter the details regarding a subpoena to be issued to police offices in the database of the PNP using the computer-generated form known as the e-Subpoena Form, which was prepared for the purpose. The e-Subpoena form is sent by the assigned court personnel at least five (5) days before the scheduled hearing of the case, or within one (1) day from the order of the court for the service of subpoena *duces tecum* or subpoena *ad testificandum*. However, it is the primary responsibility of the Chief of Police in every police station to acknowledge the issued subpoena, inform the concerned PNP personnel, and ensure his attendance in court.

As the key responsible officer, the Court Process Officer (CPO) shall acknowledge the subpoena sent by the court and undertake immediate action to locate the PNP personnel concerned, inform him, and cause the personal receipt of the subpoena as final proof of service. The police stations, through the CPO and/or PNP National Headquarters through the Directorate for Investigation and Detective Management (DIDM), will give feedback on the availability or non-availability of the police officer concerned within three (3) working days from receipt. Otherwise, any feedback regarding the concerned police officer will be disclosed during the scheduled hearing of the case as indicated in the Subpoena Form. The courts will then update the system if the PNP personnel attended or did not attend the court proceedings. Meanwhile, the Chiefs of Offices shall ensure the timely delivery of subpoenas and the appearance of all concerned PNP personnel. Police officers who fail to appear in a hearing despite receiving the summon through the e-Subpoena system may face administrative and criminal actions. The frequent and unnecessary postponements of hearings also contribute to this delay. There is this observation that some judges are very lenient in granting requests for postponements. Some judges would always grant requests for postponements made by either counsels or

²⁸ E-Subpoena launched in Crame. PNP Public Information Office. April 30, 2014. Retrieved at [tp://pnp.gov.ph/portal/index.php/press-news-releases/latest-news/1631-e-subpoena-system-launched-in-crame](http://pnp.gov.ph/portal/index.php/press-news-releases/latest-news/1631-e-subpoena-system-launched-in-crame)>last July 30,2014.

litigants, whether the request is meritorious or not. These unnecessary postponements contribute to the inordinate delay of resolution of criminal cases because scheduled hearings are pushed back and uncertainties abound on whether or not the subsequent schedule of hearings will push through due to several factors like attendance of witnesses and availability of counsels and parties, among others. With the implementation of the rules on Continuous Trial, it is expected that these frequent and unnecessary postponements will be eradicated, or at least minimized, because under the said rules, motions for postponement are prohibited, except if it is based on acts of God, force majeure, or physical inability of the witness to appear and testify. Moreover, if a motion for postponement is granted based on said exceptions, the moving party shall be warned that the presentation of its evidence must still be finished on the dates previously agreed upon. Failure to comply with this condition will result in the waiver of further presentation of evidence by the party concerned.

C. POSTPONEMENTS OF TRIALS

Another valid observation is that judges, prosecutors, and PAO lawyers are attending too many seminars or trainings, resulting in the postponement of trials previously scheduled. Again, these postponements affect the early resolution of criminal cases. Synchronization of the schedules of these seminars is therefore suggested so as not to unjustly affect the scheduled hearings of cases, which, in turn, is prejudicial to the right of the accused to speedy trial.

An accused's right to "*have a speedy, impartial, and public trial*" is guaranteed in criminal cases by Section 14(2) of Article III of the Constitution. This right to a speedy trial may be defined as one free from vexatious, capricious, and oppressive delays, its "*salutary objective*" being to assure that an innocent person may be free from the anxiety and expense of court litigation or, if otherwise, of having his guilt determined within the shortest possible time compatible with the presentation and consideration of whatsoever legitimate defense he may interpose.²⁹ The oft-repeated legal maxim "*justice delayed is justice denied*" requires the expeditious resolution of disputes, much more so in criminal cases where an accused is constitutionally guaranteed the right to a speedy trial.³⁰

Following the policies incorporated under the 1987 Constitution, Republic Act No. 8493, otherwise known as "*The Speedy Trial Act of 1998*," was enacted. Section 6 of the said law limited the trial period to 180 days from the first day of trial. The Supreme Court implemented R.A. 8493 by issuing Supreme Court Circular No. 38-98, which has been incorporated in the 2000 Rules of Criminal Procedure. Section 2 of Rule 119 directs a Continuous Trial which should not exceed one hundred eighty (180) days

²⁹ Acebedo vs. Sarmiento, 146 Phil. 820, 823 (1970).

³⁰ Philippine Constitution, Article III, Section 14, Paragraph 2.

from the first day of trial, except as otherwise authorized by the Supreme Court.

Again, in *Corpuz vs. Sandiganbayan*³¹, the Supreme Court declared that “(T)he right of the accused to a speedy trial and to a speedy disposition of the case against him was designed to prevent the oppression of the citizen by holding criminal prosecution suspended over him for an indefinite time, and to prevent delays in the administration of justice by mandating the courts to proceed with reasonable dispatch in the trial of criminal cases. Such right to a speedy trial and a speedy disposition of a case is violated only when the proceeding is attended by vexatious, capricious, and oppressive delays. The inquiry as to whether or not an accused has been denied such a right is not susceptible to precise qualification. The concept of a speedy disposition is a relative term and must necessarily be a flexible concept”. In that same case, the Supreme Court further emphasized that a balancing test of applying societal interests and the rights of the accused necessarily compels the court to approach speedy trial cases on an ad hoc basis. In determining whether the accused has been deprived of his right to a speedy disposition of the case and to a speedy trial, four factors must be considered: (a) length of delay; (b) the reason for the delay; (c) the defendant’s assertion of his right; and (d) prejudice to the defendant. Thus, an accused’s right to a speedy trial is deemed violated only when the proceeding is attended by vexatious, capricious, and oppressive delays. In determining whether the petitioner was deprived of this right, the factors to consider and balance are the following: (a) duration of the delay; (b) reason therefor; (c) assertion of the right or failure to assert it; and (d) prejudice caused by such delay.³² Be that as it may, a majority of the respondents believe that unwarranted delays in the resolution of criminal cases adversely affect the administration of justice, for it unjustly delays the rectification of a wrong and the vindication of the unjustly accused. These inordinate delays also result in the clogging of the dockets of the courts, which, at times, creates pressures on judges to take shortcuts just to free their dockets and, in the process, disrupt the prompt and deliberate disposition of those cases. Moreover, the likelihood of error in judgment may ensue as time elapses between the original fact and its judicial determination. Thus, if the facts are not fully and accurately determined, then even the wisest judge may come up with an erroneous decision, which, in effect, may be prejudicial to the best interest of the accused.³³ Moreover, since delays in the resolution of their cases would disrupt their lives and add to their expense and stress, some accused would just grab whatever opportunity is thrown their way just to escape incarceration. One of these opportunities is the plea bargain. But it must be noted that not all accused who availed of the plea bargaining are guilty of the offenses charged against them. They just took advantage of the opportunity since they were uncertain if they would get the justice they deserved under the present criminal justice system. Aside from this, as most of the accused are poor and do not have the capability to post bail for their

³¹ Supra, G.R. No. 162214, November 11, 2004, 442 SCRA 294, 312-313.

³² *Abardo vs. Sandiganbayan*, 407 Phil. 985, 999-1000 (2001); *Dela Pena vs. Sandiganbayan*, 412 Phil. 921, 929 (2001).

³³ Supra, *Southern Pacific Transportation Co. vs. Stoot*, 530 S.W. 2nd 930 (1975), Supreme Court of Texas.

temporary liberty, they will agree to pretend and plead guilty because they believe they have so much more to lose if they miss the chance.³⁴ On the other hand, some respondents postulated that the strict implementation of the rules on Continuous Trial of criminal cases is in conflict with the right of the accused to due process. It is their submission that the quality of justice that will be delivered by the courts might not be the one that parties to litigation rightfully deserve. This is primarily because the parties and their counsels may not be able to present fully their respective evidence and the courts may be time-pressured in receiving evidence and resolving cases in view of the limited period provided under the said rules. They are apprehensive that the courts and counsels, in their desire to comply with the rules on Continuous Trial, may inadvertently overlook the merits of the cases and will injudiciously terminate the proceedings. It is their submission that in criminal proceedings, procedural due process requires that the procedure established by law or the rules be followed to assure that the State makes no mistake in taking the life or liberty except that of the guilty. All the necessary measures must be taken to guarantee procedural due process throughout all stages of criminal prosecution - from the inception of the custodial investigation until the rendition of judgment.³⁵ Hence, stringent enforcement of the rules on Continuous Trial may result in an arbitrary dispensation of justice because the said rules restrict and limit the opportunity of the accused to present his defense.

D. CONSTITUTIONAL RIGHT OF DUE PROCESS AND SPEEDY TRIAL

The constitutional right to due process secures everyone an opportunity to be heard, presupposing foreknowledge of what he may be up against, and to submit any evidence that he may wish to proffer to clear himself. This right is two-pronged – substantive and procedural due process – founded, in the first instance, on Constitutional or statutory provisions, and in the second instance, on accepted rules of procedure.³⁶ Substantive due process looks into the extrinsic and intrinsic validity of the law that figures to interfere with the right of a person to his life, liberty, and property. Procedural due process – the more litigated of the two – focuses on the rules that are established in order to ensure meaningful adjudication in the enforcement and implementation of the law. The term due process does not admit of any restrictive definition. Justice Frankfurter has viewed this flexible concept as being "*compounded by history, reason, the past course of decisions, and stout confidence in the democratic faith.*"³⁷ The framers of the

³⁴ Supra, JUSTIA Law Portal, USA, May 2019. <https://www.justia.com/criminal/plea-bargains/reasons-to-accept-a-plea-bargain/>.

³⁵ Benjamin "Kokoy" Romualdez vs. Sandiganhayan (First Division) and The People of the Philippines represented by Special Prosecution Officer II Evelyn Tagoba Lucero, G.R. No. 143618-41, July 30, 2002.

³⁶ Aniag, Jr. vs. Commission on Elections, 237 SCRA 424; Tupas vs. Court of Appeals, 193 SCRA 597.

³⁷ Abraham, Henry J. (1995). Basic Guidelines of "Due Process of Law." The Lawyers Review, Vol. IX, 30 April 1995, p. 1.

Constitution, it would seem, have deliberately intended, to make the term due process malleable to the ever-changing milieu of society. Hitherto, it is dynamic and resilient, adaptable to every situation calling for its application that makes it appropriate to accept an enlarged concept of the term as and when there is a possibility that the right of an individual to life, liberty, and property might be diffused.³⁸ Verily, whenever there is an imminent threat to the life, liberty, or property of any person in any proceeding conducted by or under the auspices of the State, his right to due process of law, when demanded, must not be ignored.

Therefore, in determining the right of an accused to speedy trial against the backdrop of his right to due process, courts are required to do more than mathematical computations. A mere mathematical reckoning of the time involved is clearly insufficient³⁹ and particular regard must be given to the facts and circumstances peculiar to each case.⁴⁰ The term "speedy disposition" is a relative term and necessarily a flexible concept. Mere mathematical reckoning of the time involved would not suffice, as the realities of everyday life must be regarded in judicial proceedings which, after all, do not exist in a vacuum. As such, any alleged delay in the disposition of the case should be considered in view of the entirety of the proceedings.⁴¹

To demonstrate, in *Alvizo vs. Sandiganbayan*⁴², the Supreme Court ruled that there was no violation of the right to speedy trial and speedy disposition. The High Court took into account the reasons for the delay, i.e., the frequent amendments of procedural laws by presidential decrees, the structural reorganizations in existing prosecutorial agencies and the creation of new ones by executive fiat, resulting in changes of personnel, preliminary jurisdiction, and the functions and powers of prosecuting agencies. But in *Defensor-Santiago vs. Sandiganbayan*⁴³, the complexity of the issues and the failure of the accused to invoke her right to speedy disposition at the appropriate time spelled defeat for her claim to the constitutional guarantee. Moreover, although periods for trial have been stipulated, these periods are not absolute, and where periods have been set, certain exclusions are allowed by law.⁴⁴ After all, the courts and the law recognize that it is but a fact that judicial proceedings do not exist in a vacuum and must contend with the realities of everyday life. In spite of the prescribed time limits, jurisprudence continues to adopt the view that the fundamentally recognized principle is that the concept of speedy trial is a relative term and must necessarily be a flexible concept.⁴⁵ The task of the pillars of the criminal justice system is to preserve the democratic society under the rule of law,

³⁸ Cruz, Isagani A. 1995 Edition, Constitutional Law, pp. 94-95.

³⁹ *Socrates vs. Sandiganbayan*, 324 Phil. 151, 170 (1996); *Tai Lim v. Court of Appeals*, 375 Phil. 971, 977 (1999).

⁴⁰ *Santiago vs. Garchitorena*, G.R. No. 109266, December 2, 1993, 228 SCRA 214, 221.

⁴¹ *Sps. Uy vs. Judge Adriano*, 536 Phil. 475, 497 (2006).

⁴² G.R. No. 101689, March 17, 1993, 220 SCRA 55.

⁴³ 408 Phil. 767 (2001).

⁴⁴ *Solar Team Entertainment, Inc. vs. Judge How*, 393 Phil. 172, 184 (2000).

⁴⁵ *Ibid.*

ensuring that all those who appear before or are brought to the bar of justice are afforded a fair opportunity to present their side.⁴⁶ It must be stressed that the determination of the length of delay is never mechanical. Rather, the court must consider the peculiar facts and circumstances surrounding the case. As the rule now stands, a case should not precipitately be dismissed simply because the case dragged beyond the reasonable periods. The prosecution must be given the chance to prove to the satisfaction of the court that it followed the prescribed procedure in the prosecution of the case, the issues in the case were complex, the volume of evidence made the delay inevitable, and the accused did not suffer any prejudice as a result of the delay.⁴⁷ Verily, while justice is intended to be administered with dispatch, the essential ingredient is orderly and expeditious, and not mere speed. It cannot be definitely said how long is too long in a system where justice is supposed to be swift, but deliberate. It secures the rights of an accused, but it does not preclude the rights of public justice. Also, it must be borne in mind that the rights given to the accused by the Constitution and the Rules of Court are shields, not weapons; hence, courts are mandated to give meaning to that intent.⁴⁸

The term criminal justice encompasses a chain of events, activities, tasks, or functions that constitutes the official response to perceived problems of law and order, which includes the following: crime prevention and crime reduction; the arrest and prosecution of suspects; the hearing of criminal cases by the courts; sentencing, administration and enforcement of court orders; parole and other forms of license for prisoners; and work with offenders and ex-offenders in prison or the community.⁴⁹ The criminal justice system in the Philippines is envisioned as being supported by five pillars, namely: law enforcement, prosecution, courts, corrections, and the community. Each of these five pillars plays a vital role in the administration of justice and, as such, their interplay and cooperation are most necessary for the proper functioning of a criminal justice system.⁵⁰ The first pillar is the law enforcement pillar. It consists mainly of the officers and personnel of the Philippine National Police (PNP), National Bureau of Investigation (NBI), Philippine Drug Enforcement Agency (PDEA), Anti-Money Laundering Council (AMLC), Armed Forces of the Philippines (AFP), and 34 other related agencies. These agencies are at the forefront of the criminal justice system of the country. They directly deal with the citizens and are directly exposed to the criminal elements.⁵¹ Clearly, it is thus necessary that the

⁴⁶ *People vs. Leviste*, 325 Phil. 525, 537 (1996).

⁴⁷ *Cesar Matas Cagang vs. Sandiganbayan, Fifth Division, Quezon City, Office of the Ombudsman, and People of the Philippines*, G.R. Nos. 206438 and 206458 - G.R. Nos. 210141-42, July 31, 2018.

⁴⁸ *Mari vs. Gonzales*, GR No.187728, September 12, 2011, citing *Tan vs. People*, GR. No.173637, April 21, 2009.

⁴⁹ Gibson, Bryan and Cavadino, Paul (2008). *The Criminal Justice System: An Introduction*.

⁵⁰ *Assessment of the Capacity of the Pillars of the Philippine Criminal Justice System: To Implement the Medium-Term Development Plan for the Criminal Justice System (2010-2016)*. Prepared by the Program Management Office (PMO) of the Supreme Court and the United Nations Development Programme (UNDP).

⁵¹ Maru, John (2020). *Effective Administration of the Police and Prosecution in Criminal Justice of Papua New Guinea*, 120th International Senior Participants' Paper, 158;

member agencies within this pillar are both trained and well-oriented with the ways of civil society. Their work consists of preventing and controlling crimes, enforcing laws, and effecting the arrest of offenders, including the conduct of lawful searches and seizures, to gather necessary evidence so that a complaint may be filed at the Prosecution's Office. Identified as the first point of contact with the community, this pillar initiates the machinery of the criminal justice system upon arresting a person believed to be a suspect.⁵²

The second is the prosecution pillar, which is composed of the National Prosecution Service of the Department of Justice (DOJ), the Office of the Ombudsman (OMB), and the Public Attorney's Office (PAO). While the focus of this pillar is the speedy disposition of cases⁵³, its principal task is the investigation of criminal complaints emanating from the community and law enforcement agencies and bringing these complaints to their successful prosecution in the judicial system.⁵⁴ Also, the prosecution pillar conducts preliminary investigations of cases filed in the prosecutor's office and prosecutes cases filed in the court against alleged offenders after probable cause is established.⁵⁵ The courts, which comprise the third pillar, adjudicate cases and render judgment. The Philippine Judiciary is a four-tiered court system consisting of the Supreme Court as the highest court of the land; the intermediate courts consisting of the Court of Appeals, Sandiganbayan, and Court of Tax Appeals; the second-level courts, which consist of Regional Trial Courts and Shari'a District Courts; and the first level courts consisting of Metropolitan Trial Courts, Municipal Trial Courts in Cities, Municipal Trial Courts, Municipal Circuit Trial Courts, and Shari'a Circuit Courts. The goal of the courts is not merely to adjudicate cases, but to do so in accordance with the Rule of Law and without sacrificing the quality of justice.⁵⁶ Many of the factors that affect the disposition of a litigation – such as those that are in relation to the procurement of witnesses and evidence, the determination of probable cause, and the like – are clearly outside of the control of the Judiciary.⁵⁷ Nevertheless, because the litigation process brings all these factors together, the performance of the courts,

<http://www.unafei.or.jp/english/pdf/PDF_rms/no60/ch11.pdf> (last accessed Nov. 28, 2020).

⁵² Francisco, Felizardo Y. (2020). Making a Difference in the Life of Students;

<<http://www.manilatimes.net/index.php/opinion/27820-making-difference-in-the-life-of-students>> (last accessed Nov. 29, 2020).

⁵³ Cabahug-Aguhob, Rutchie (2020). RPOC-NorMin formulates Integrated Area/Community Public Safety Plan.

<<http://www.pia.gov.ph/?m=12&sec=reader&rp=1&fi=p060922.htm&no=9&date=09/22/2006>> (last accessed Nov. 29, 2020).

⁵⁴ Supreme Court of the Philippines and UNDP, Conduct of Further Study on Operations and Linkages of the 5 Pillars of Justice Supreme Court of the Philippines: Final Report, 2-1 (March 2006).

⁵⁵Ibid.

⁵⁶ UN Human Rights Committee, Consideration of Reports Submitted by States Parties Under Article 40 of the Covenant [ICCPR], Second Periodic Report, The Philippines, Part I, F ¶370 at 71, UN Doc. CCPR/C/PHL/2002/2 (Sept. 18, 2002).

⁵⁷ UN General Assembly [U.N.G.A.], Human Rights Council Working Group on Universal Periodic Review, National Report Submitted in accordance with Paragraph 15(a) of the Annex to the Human Rights Council Resolution 5/1 The Philippines, Part III, ¶131 at 17, UN Doc.A/HRC/WG.6/1/PHL/1 (March 7, 2008).

therefore, would serve to synthesize to a large extent the overall performance of the criminal justice system.⁵⁸

The fourth pillar, the corrections pillar, is composed of jails and prisons administered by the Bureau of Corrections (BUCOR), the Bureau of Jail Management and Penology (BJMP), and by the local government units with regard to provincial and sub-provincial jails. The Philippine National Police (PNP) likewise maintains detention facilities in its different police stations nationwide. The corrections pillar may also be classified into two: institution-based and community-based corrections.⁵⁹ On the one hand, institution-based corrections include prisons and jails that house prisoners serving terms of imprisonment, under detention status, and those for safekeeping in selected cases. On the other hand, community-based corrections pertain to probation and parole. These are being managed by the Parole and Probation Administration (PPA) of the Department of Justice (DOJ). The PPA conducts a post-sentence investigation of petitioners for probation as referred by the courts, as well as pre-parole/pre-executive clemency investigation for those referred by the Board of Pardons and Parole, to determine the suitability of the offender to be reintegrated in the community instead of serving their sentence inside an institution or prison. The PPA further supervises probationers, parolees, and conditional pardonees to promote their rehabilitation and reintegration into the mainstream of society. It mobilizes community resources, especially through volunteer probation aides.⁶⁰

The last pillar is the community pillar. This pillar is composed of institutions such as the Department of Social Welfare and Development (DSWD), Commission on Human Rights (CHR), National Commission on Indigenous Peoples (NCIP), Public Attorney's Office (PAO), barangays, civic organizations, and non-governmental organizations. Members of the community pillar are regarded to be both duty holders and claim holders in the administration of justice.⁶¹ As duty holders, they have the responsibility to assist law enforcement and the courts in solving crime by providing information, by community participation in crime prevention and creating a culture of peace, and by supporting the mobilization of resources for peace and order.⁶² As claim holders, they are the beneficiaries of the justice system and they play critical roles in holding system duty holders accountable.⁶³ Likewise, it is always stressed that the community as a subsystem of the whole cyclical process is the most critical and useful component of the criminal justice system considering its massive and pervasive composition. This also plays a crucial role toward the society's common goal of a fair and equal administration of justice – either victims or criminals.⁶⁴ The

⁵⁸Supra.

⁵⁹ Supra, SC & UNDP, 2006 Final Report.

⁶⁰Ibid.

⁶¹Ibid.

⁶²Ibid.

⁶³Ibid.

⁶⁴ Matias, Ma. Millagros M. and Julianes, Melchor (2020). Community's Participation in the Criminal Justice System Process: Impact on Victimization Prevention.

importance of the community pillar cannot be overemphasized. In its own manner, it ideally participates in two main responsive roles of the criminal justice system: first, that of crime prevention, and second, that of victim prevention.⁶⁵ As for the first, this pillar collectively imposes limitations on the individual behaviour of citizens that deter criminality and criminal behaviour for the common good of civilized and democratic society.⁶⁶ Meanwhile, in relation to the second, it has been recommended that communities must disseminate more information regarding the roles and functions of the other components of the criminal justice system, as well as broaden its own, in order to contribute to victimization prevention responsively.⁶⁷ What is common in the foregoing narratives is the role of courts in the effective and efficient functioning of this criminal justice system. In fact, the overall performance of the criminal justice system may be determined by the performance of the courts pillar. This is primarily because the courts are considered as the cornerstone of the system. After all, they determine whether the person charged with a criminal offense is guilty or not. The courts are the focal point of the criminal justice system because their decisions set in motion the subsequent roles the rest of the stakeholders will assume. If a person is found guilty of the offense charged, the penal or correctional institutions will enter the picture. However, if the person is found innocent by the court, he will be reintegrated into the community and resume to live a normal life.⁶⁸ It is often said that courts exist to do justice, to guarantee liberty, to enhance social order, to resolve disputes, to maintain the rule of law, to provide equal protection to all regardless of background, and to ensure the due process of law. Courts exist so that the equality of individuals and the state is a reality rather than empty rhetoric and to ensure that the rights enshrined in the Constitution are applied in its decisions and complied with by legislation.⁶⁹

Unfortunately, judicial processes in the Philippines are lengthy, resulting in delayed case resolution. Delays in the delivery of justice disproportionately affect the poor in terms of prolonged unemployment and income foregone as a result of detention, since the majority of detainees are poor, marginalized, and underprivileged. Delays in criminal proceedings, weak capacity, lack of coordination, and jail overcrowding undermine the criminal justice system in the Philippines.⁷⁰ Corollary thereto, a majority of the respondents acknowledged that justice will be denied to those who

<<http://www.philjol.info/index.php/EACRB/article/viewFile/871/801>> (last accessed Nov. 26, 2020).

⁶⁵Supra.

⁶⁶ Supra, SC & UNDP, 2006 Final Report.

⁶⁷ Supra, Matias and Julianes, Community's Participation in the Criminal Justice System Process: Impact on Victimization Prevention.

⁶⁸ Valenzuela, Roy Panti (2016). Glimmers of hope: A report on the Philippine Criminal Justice System. *International Review of the Red Cross*, 98 (3), 845-849. Detention: addressing the human cost; doi:10.1017/S1816383117000716

⁶⁹ The Open University: OpenLearn. ©1999-2020. All rights reserved.<https://www.open.edu/openlearn/ocw/mod/oucontent/view.php?id=68089§ion=2>.

⁷⁰ Philippines: Governance in Justice Sector Reform Program Asian Development Bank, (ADB) Completion Report. Project Numbers: 41380-013 and 41380-023, Loan Numbers: 2489 and 2840, Technical Assistance Numbers: 7210 and 8006, June 2017.

deserve it when criminal proceedings drag on. This reality is one of the reasons why some people are deterred from going to court because of the length of the process and expense involved in litigation and are likewise worried by the length of time it takes to obtain justice. If this observation goes unchecked, the people's trust and confidence in the justice system will surely diminish. Over-crowding in detention facilities will also result if the inordinate delay in the resolution of criminal cases goes unimpeded. It is a fact that detention facilities all over the country are overpopulated, and one of the factors that contributes to this dismal condition of jails is the delay in processing and terminating criminal cases. The combined population in prisons run by the Bureau of Corrections (BuCor), where convicted people are incarcerated, and the jails run by the Bureau of Jail Management and Penology (BJMP) for those on trial or pre-trial was 215,000 as of November 2020. All these facilities combined have a maximum capacity of 41,000. About three-quarters of them are being held awaiting trial.⁷¹ The Bureau of Jail Management and Penology has reported that the 467 jails nationwide were at 392% of capacity in March 2021, while the Bureau of Corrections records indicate that the congestion rate in its 125 prisons was 303% in February 2021. As of March 2021, all jails in the country have a national congestion rate of 335%, indicating that there are 3 times more people incarcerated than the intended capacity of prisons.⁷²

E. TEMPORARY AND PERMANENT RELEASE OF PERSONS DEPRIVED OF LIBERTY

To address this problem of jail congestion, coupled with the onset of the Covid-19 pandemic, the Supreme Court issued on April 20, 2020, OCA Circular No. 9L-202028 to address the temporary or permanent release of qualified persons deprived of liberties (PDLs), reminding judges to adhere to the Guidelines for Decongesting Jails by Enforcing the Rights of the Accused Persons to Bail and to Speedy Trial⁷³, particularly Sections 5 on the release after service of minimum imposable penalty, and 10 on provisional dismissal. Subsequently, on April 30, 2020, the Supreme Court issued Administrative Circular No. 38-2020, setting the guidelines for reduced bail and recognizance as modes for the temporary release of qualified PDLs during this public health emergency, pending the resolution of their cases. AC No. 38-2020 directed the trial courts to allow reduced bail and recognizance for indigent persons deprived of liberties (PDLs). Under this circular, indigent PDLs who face possible imprisonment of *reclusion temporal* or 12 years and 1 day to 20 years; *prision mayor* or 6 years and one day to 12 years; *prision correctional* or 6 months and one day to 6 years; could post bail at reduced amount, while those indigent PDLs facing *arresto mayor* or one month to 6 months and *arresto menor* or one day to 30 days have been allowed bail on their recognizance.

⁷¹ Combined data from the websites of the Bureau of Corrections (BuCor) and the Bureau of Jail Management and Penology (BJMP).

⁷²Ibid.

⁷³ Administrative Matter No. 12-11-2-SC, effective May 1, 2014.

Administrative Circular No. 38-2020 was issued to complement Administrative Circular No. 37-2020 issued by the Supreme Court on April 27, 2020, which ordered the expanded pilot testing of hearings of criminal cases involving persons deprived of liberty or PDLs through videoconferencing in court stations identified by the Office of the Court Administrator (OCA). The conduct of hearings through videoconferencing was subsequently expanded to include all courts and all stages of trial. With the implementation of the foregoing measures and similar other procedures that allowed the courts to perform even during the lockdowns, a total of 122,178 PDLs have been released from March 17, 2020, to February 11, 2021, and more than half of them were through videoconferencing hearings.⁷⁴ Another damaging effect of inordinate delay in the resolution of criminal cases in the country's criminal justice system is the possible collapse of law and order or the potential rise of vigilantism. This may happen because the victims may try to settle their disputes on their own or resort to extra-judicial means. Vigilantism is not new in the Philippines. Modern Philippine history is replete with examples of vigilantism by various groups from within and beyond the state, encompassing at various times on-and-off-duty activities of militias, members of the armed forces and the police, private armed groups organized and financed by members of the dominant classes, semi-criminal groups tolerated by the government, and sectarian cultist groups, to mention only the most important categories. Their membership has been as varied as their organizational structure, which ranges from officials from the state and para-state security services to criminals operating on a small scale, all the way to ex-members of the various communist rebel groups.⁷⁵

The common driving factor behind vigilantism or extrajudicial violence is the public's loss of confidence in state institutions and the people are turning instead to more immediate forms of punishment and control. This is happening, according to Phelim Kine, a deputy director of the Asia Division at Human Rights Watch, because of the fact that "*the judicial system, the court system, is broken in the Philippines.*"⁷⁶ The elements of corruption and perceptions that people can buy themselves protection from the police or buy themselves out of trouble amplify the frustrations among Filipinos who sense that the government and the judicial system are part of the problem and not the solution. When people begin to see the justice system as thoroughly corrupt and broken, they feel unprotected from crime. That sense of threat makes them willing to support vigilante violence, which feels like the best option for restoring order and protecting their personal safety.⁷⁷ Rough justice or the use of harsh extralegal tactics is also resorted to by the

⁷⁴ <https://sc.judiciary.gov.ph/media-releases>; <https://newsinfo.inquirer.net/1397827/sc-chief-over-120000-pdls-freed-since-start-of-covid-19-lockdown-in-2020#ixzz6rDeOVylu>

⁷⁵ Kreuzer, Peter (2016). Vigilantism in the modern Philippines: If they resist, kill them all. Police Vigilantism in the Philippines. Peace Research Institute Frankfurt (2016). <http://www.jstor.com/stable/resrep14515.5>

⁷⁶ Taub, Amanda (2016). How Countries Like the Philippines Fall Into Vigilante Violence, September 11, 2016, The New York Times; <https://www.nytimes.com/2016/09/12/world/asia/the-philippines-rodrigo-duterte-vigilante-violence.html>

⁷⁷Ibid.

people when the criminal justice system does not deliver. In fact, if this becomes persistent over a period of time, a certain culture of punishment is generated, which may include increased support for the use of extrajudicial violence. People whose relatives have been unjustly killed see violence as a legitimate way to right that wrong. Thus, once violence becomes an acceptable means for settling disputes and exerting power, it is difficult for people to trust any other system. It is just lamentable that it does not take evil to destroy a community's peace and safety. Rather, ordinary human desire for security, coupled with weak institutions and desperate short-term thinking, can lead a country into an escalating disaster.⁷⁸

F. COURTS AND THE INORDINATE DELAY

It is an admitted fact that there is, indeed, an inordinate delay in the resolution of criminal cases. The causes of this delay come from various causes which include, but are not limited to, delays attributable to the courts; to government agencies involved in the dispensation of justice like the prosecution and the police; to the lawyers; and some institutional deficiencies like budgetary constraints, delays in judicial appointments and ineffective inter-agency cooperation, among others.⁷⁹ However, inordinate delays in the resolution of criminal cases will become a thing of the past if the principal actors involved in the justice system – the judges, lawyers, and litigants – follow and comply with the rules on the Continuous Trial of criminal cases. To reiterate, the primary objective of the rules is to expedite trials and resolutions by imposing mandatory observance of existing rules for court action and introducing best practices for speedy disposition of criminal cases. What the rules did was to streamline the delay-prone phases of litigation in order to protect and advance litigants' constitutional right to speedy disposition of criminal cases. However, it is the courts, through the judges, which play a very vital role in this endeavor. Judges need to have full control of the proceedings if an inordinate delay in resolving criminal cases is to be accomplished. As such, judges must observe and follow the following significant provisions of the rules on Continuous Trial:

1. Start trial on time, avoid unnecessary postponements, and be watchful of prohibited pleadings. During trial, judges should remind lawyers to ask only relevant and pertinent questions and to avoid grandstanding, for such results only in protracted trials or proceedings;
2. Mandatory observance of the reglementary periods on arraignment and pre-trial and the simultaneous conduct of the same;

⁷⁸Supra.

⁷⁹ Supra, Feliciano and Muyot, *The Philippine Criminal Justice System*, PHRD Grant, World Bank and Supreme Court of the Philippines, 2000.

3. The designation of trial dates, particularly the schedule of presentation of evidence by the parties which shall be binding and cannot be re-scheduled;
4. One day-one witness rule, *i.e.*, a witness has to be fully examined in one day only;
5. The judicial affidavit rule and the possibility for stipulations of the testimonies of non-essential witnesses, such as forensic chemists, medico-legal officers, investigators, auditors, accountants, engineers, custodians, expert witnesses, among others;
6. The oral offer of evidence and the ruling thereon which shall also be made orally and in open court; and
7. Mandatory observance of reglementary periods within which to resolve pending incidents and decide cases, including the dates of the promulgation of the decision provided for under the Rules of Court.

On the part of the lawyers and litigants, they can also do their share in order to avoid this inordinate delay in the resolution of criminal cases for this adversely affects the efficiency of the criminal justice system. Lawyers, like judges, must also come to court for their scheduled hearings on time. This is essential to avoid delay in the scheduled hearings of cases, which, in turn, will translate to the speedy disposition of cases by the courts. They must also come to court ready and prepared so as to avoid requests for extensions, postponements, and other dilatory tactics. They should not also request postponements and extensions for flimsy reasons. They should not also file pleadings that are prohibited under the rules. It is a known fact that lawyers have the propensity to file petitions for mandamus, prohibitions, and certiorari, even for interlocutory orders of the lower courts, in order to delay the case. Lawyers are said to do this to hopefully improve the position of their clients as the case drags.⁸⁰

It is worth emphasizing that improvements in judicial efficiency, particularly in the areas of case management and procedural reforms, can have strong effects on the justice system of the Philippines. Reforms like the rules on Continuous Trial of criminal cases can effectively improve efficiencies in the justice system by speeding up cases and reducing court congestion, without reducing the quality of justice. This swift and fair administration of justice brought about by these rules will now help in gaining the trust of the people and the confidence of the international community in the justice system of the country.⁸¹ Almost all of the

⁸⁰ Supra, Feliciano and Muyot, *The Philippine Criminal Justice System*, 2000.

⁸¹ Supra, Orbeta, Aniceto, Paqueo, Vicente, and Siddiqi, Bilal (2021). *Impacts of Judicial Reform in Criminal Case Procedures on Court Congestion in the Philippines*, 2021. Innovations for

respondents are convinced that the current rules on Continuous Trial of criminal cases can help resolve the inordinate delay in the resolution of cases. Simply stated, the current rules on Continuous Trial will facilitate the speedy resolution of criminal cases. As a result, trial courts will have high case disposition rates. High disposition rates, in turn, will mean lower average caseloads for the trial courts nationwide. Consequently, lower caseloads will mean lower case backlogs for trial courts, since cases can now be resolved within a shorter period of time as compared before. Criminal cases can now be resolved and terminated with dispatch. Now with trial courts having lower caseloads, trial durations will be shortened because they will now have sufficient time to handle pending cases. This will result in the efficient and effective dispensation of justice. High case disposition rate in trial courts is an indication that the current rules on Continuous Trial are effective in resolving the problem of delay in the resolution of criminal cases. This is a tell-tale sign that the said rules bring about a swift and judicious delivery of justice. This also means that having a high disposition rate will mean lower average caseloads for the trial courts since the possibility is greater that case outflow will be higher than case inflow instead of the other way around. The Judiciary Annual Report 2017 shows that trial courts have a disposal rate of 35% for calendar year 2016. It is important to emphasize, however, that when this data was collated, the rules on Continuous Trial of criminal cases were not yet implemented. Nevertheless, this figure can be used as a basis or indicator in determining the effectiveness of the said rules in curbing the delay in resolving criminal cases. This will be done by comparing the disposal rates for trial courts before and after the implementation of the rules on Continuous Trial of criminal cases. In the Judiciary Annual Report 2018, collated and released by the Public Information Office of the Supreme Court, pertaining to case disposal rates for trial courts for the calendar year 2017, the trial courts have a disposal rate of 46% for the calendar year 2017. This 46% disposition rate for trial courts for 2017 is considerably higher than the 35% disposition rate for 2016. The increase of 11% percent in the disposition rate is substantial as this is equivalent to hundreds of thousands of cases resolved within a year. This is a simple indication that the rules on Continuous Trial of criminal cases are, indeed, helping resolve the delay in trial proceedings. It is important to note that the rules on Continuous Trial of criminal cases took effect on September 1, 2017; hence, to give more weight to this data as it is presented should be minimized. Nevertheless, this data on the case disposal rate for 2017 could serve as a basis in determining the effectiveness of the rules in resolving the delays observed in resolving criminal cases after the implementation. For calendar years 2018 and 2019, the disposal rate is 53%. This reveals a 7% increase in disposal rate from the 46% achieved in 2017. This shows that the implementation of the rules on Continuous Trial of criminal cases made a significant impact on the speedy resolution of criminal cases.

Again, this data supports the finding of the survey that an increase in case disposition rates in trial courts indicates that the rules on Continuous

Trial are indeed effective in resolving the problem of delay in trial proceedings. This fact corroborates the conclusion that the said rules will result in the effective and efficient delivery of justice in the country. For calendar year 2020, the disposition rate for trial courts is 77%. If compared with the disposition rate for 2019 of 53%, a dramatic increase of 24% will be observed. This once again proves that since the implementation of the rules on Continuous Trial of criminal cases in 2017, there has been a steady increase in case disposition rates for trial courts up to the present. The data obtained from the Continuous Trial Monitoring System (CTMS) of the Court Management Office of the Supreme Court from the time the rules on Continuous Trial were implemented in September 2017 until December 31, 2020, shows a 39% disposal rate for the newly filed cases from September to December 2017. The following year 2018, the disposal rate was 65%, which is higher than the 39% disposal rate for the previous year. For 2019, the disposal rate rose to 69%. From January to December 2020, the disposal rate was pegged at 72%. The CTMS is a software that monitors compliance with the court's Continuous Trial system. It captures information on the nature of each case; the identity, age, sex, and birthdate of the accused; and the case history, including dates for each stage of the proceedings. However, the scope of the CTMS is limited to criminal cases for now and does not yet cover civil or commercial cases. It is important to note, however, that the data from the CTMS do not accurately represent the actual case disposal rates in criminal cases, including case statistics, for all the trial courts in the country because only 85% of the nation's trial courts use the CTMS in submitting reports on criminal cases to the Supreme Court. Nevertheless, it can be observed that the implementation of the rules on Continuous Trial has more impact on the newly filed cases and not the old ones. The study conducted by Aniceto C. Orbeta, Jr. and Vicente B. Paqueo of the Philippine Institute for Development Studies (PIDS), and Bilal Siddiqi of the University of California, Berkeley, United States, released in February 2021, proved that the Continuous Trial reform increased clearance rates by between 35–36 percentage points at the trial courts level. In contrast, no movement in disposition rates was observed, suggesting that the main impact of the reform was in tackling new or incoming cases and not pending cases. This particular paper further revealed that at the case level, the Continuous Trial reform effectively reduces case duration by 55 days (14%) in cases recorded in the electronic court case management system and 61 days (10%) in cases recorded in the Continuous Trial monitoring system. It increased the proportion of cases disposed in 180 days by eight percentage points (54%), and the proportion of cases disposed in 330 days by nine percentage points (41%). The reform has affected most phases of trials until submission of the decision. Specifically, it reduces the duration from receipt of case in court to pre-trial by 50 days, pre-trial to initial trial by 22 days, and trial duration by 57 days. It was therefore concluded that from a policy perspective, the Continuous Trial reform has been an effective means of improving court efficiency for criminal cases.

In a virtual presentation of the Impact Evaluation Report for Judicial Reform Projects of the Supreme Court presented before the Justices of the

Supreme Court on September 30, 2020, the Innovations for Poverty Action (IPA)⁸² reported that the implementation of the Revised Guidelines for Continuous Trial of Criminal Cases “has effectively reduced case duration and increases proportion of cases disposed for criminal cases” and is “effective in increasing clearance rates of criminal cases, and to a lesser extent, the disposition rate.” It also noted the satisfaction of judges, adding the perception that the initiative “improves court efficiency in reducing caseload and disposition of cases.”⁸³ The aforementioned report likewise declared that as of September 2020, 47.82 percent of cases have complied with the 180-day period for trial provided by law and the Rules of Court compared to the 2.36 percent prior to the effectivity of the revised guidelines. That cases are also being decided more swiftly with 68.5 percent of judgments promulgated within the 90-day period required under the Constitution, compared to only 37.75 percent in previous cases.⁸⁴ The same report also mentioned that from September 1, 2017, to September 1, 2019, an average of 26.83% of first and second level trial courts successfully complied with the 180-day period for trial provided by law and the Rules of Court. It noted that prior to the effectivity of the revised guidelines, the compliance rate was at only 1.76%. The report further added that cases are also being decided more swiftly, with 71.1% of judgments promulgated within the 90-day period required under the Constitution. This is a marked improvement from the 36.91 percent rate prior to the adoption of the rules on Continuous Trial.⁸⁵

Nowadays, states spend more time, attention, and money on performance measurement and evaluation in the public sector than ever before, including the judicial system. The results-based management, or the so-called performance management, is practically being employed in evaluation studies involving the government’s performance. Specifically for the judiciary, two (2) key performance factors are taken into consideration in its performance measurement system: the Clearance Rate and Disposition Rate.⁸⁶ Clearance rate is a simple ratio, obtained by dividing the number of resolved cases, or total case disposal, with the number of incoming cases or case inflow, expressed as a percentage. The clearance rate is one of the most commonly used indicators to monitor the case flow. Essentially, this indicator is used to assess the ability of a judicial system to handle the inflow of judicial cases. The clearance rate shows how the court or judicial system is coping with the in-flow of cases. Clearance rate allows comparisons even when the parameters of the cases concerned in different countries are not identical in every respect Hence, the inability to produce clearance rates

⁸² A research and policy non-profit organization that conducted research studies on SC’s three core reform projects – the Revised Guidelines for Continuous Trial of Criminal Cases, the Electronic Courts System (eCourts), and the Rules of Procedure for Small Claims Cases, in partnership with the International Initiative for Impact Evaluation (3ie).

⁸³ Catabay-Sibal, Darylle Evie Mae C. (2020). Judiciary Assures Continuing Reforms Amidst Pandemic, published in Benchmark, The Official Magazine of the Supreme Court Public Information Office, Volume 05/Number 03/Special Issue 2020.

⁸⁴Ibid.

⁸⁵Ibid.

⁸⁶ Hodzic, Adis and Stawa, Georg (2016). What can be said on clearance rate and disposition time, and some more relations? Study of European Judicial Systems, 2016 Edition. European Commission for the Efficiency of Justice (ECEJ).

indicates the following: the inability of a judicial system or a court to assess the overall length of proceedings; a lack of a standardized typology of cases; absence of ability to monitor the course of proceedings; and absence of means to promptly detect delays and mitigate their consequences.⁸⁷ A clearance rate close to 100% indicates the ability of the court or of a judicial system to resolve approximately as many cases as the number of incoming cases within the given period. A clearance rate above 100% indicates the ability of the system to resolve more cases than those received, thus reducing any existing backlog or pending cases. Meanwhile, a clearance rate below 100% appears when the number of incoming exceeds the number of resolved cases. In this particular scenario, the total number of backlogs will increase.⁸⁸

The data appearing in the Judiciary Annual Report for the years 2017 until 2020 pertaining to Clearance Rates of the judiciary from the time of the implementation of the rules on Continuous Trial of criminal cases in 2017 up to 2020 shows that the clearance rate for trials courts remains high at more than 100%. A clearance rate above 100% indicates the ability of the system to resolve more cases than those received, thus reducing any existing backlog or pending cases.

As stated otherwise, the implementation of the rules on Continuous Trial facilitated the expeditious resolution of cases before the trial courts, resulting in the reduction of the courts' current caseloads. This means, therefore, that the rules on Continuous Trial are effective in resolving the inordinate delay in the resolution of cases. Meanwhile, the disposition rate provides further insight into how the judicial system manages the flow of cases. The indicator compares the total number of pending cases at the end of the observed period with the number of resolved cases during the same period. It is the number of disposed cases as a percentage of the active caseload. The disposition rate is a measure of the cases a court disposed of in a particular period compared to the average active caseload during the same period. This is a measure of the judicial workload and represents the actual day-to-day workings of the courts. This calculation takes into consideration the disposition of cases on the active docket in addition to the other matters addressed by the courts on an average day. The disposition rate portrays the flow of the variety of judicial proceedings routinely before the courts.⁸⁹

According to the data lifted from the Annual Reports of the Judiciary released by the Public Information Office of the Supreme Court, a significant increase in case disposition rates of trial courts was observed from the time the rules on Continuous Trial of criminal cases were implemented in 2017. The 46% disposition rate for calendar year 2017 is considerably higher compared to the 35% disposition rate for calendar year 2016. This increase of 11% is substantial as this is equivalent to hundreds of thousands of cases

⁸⁷ Supra, Hodzic and Stawa, What can be said on clearance rate and disposition time, and some more relations?

⁸⁸Ibid.

⁸⁹ Judicial Management Report 2019, El Paso County, Texas, USA.

resolved within that year. Moreover, the disposition rate for trial courts for calendar years 2018 and 2019 is 53%. This is a 7% increase in disposal rate from the 46% achieved in 2017. Finally, the disposition rate for the calendar year 2020 is 61%, which is 8% higher than the disposition rate for the previous year. The calculated disposition time is another factor that is considered in measuring the judiciary's performance. Disposition time provides insight into how long a type of case in a specific jurisdiction can be solved. The indicator compares the total number of pending cases at the end of the observed period with the number of resolved cases during the same period and converts this ratio into a number of days. This indicator measures the theoretical time necessary for a pending case to be solved in court in light of the current pace of work of the courts in a particular country.⁹⁰

Disposition time is obtained by dividing the number of pending cases at the end of the observed period by the number of resolved cases within the same period multiplied by 365 representing the days in a year. The conversion into days simplifies the understanding of the relation between pending and resolved cases within a period. For example, the calculated disposition time would show that the time necessary for solving a pending case has increased from 120 to 150 days. This allows comparisons within the same jurisdiction over time and, with some prudence, between judicial systems in different countries. It is also relevant for assessing court efficiency in this regard in the light of established standards for the length of proceedings.⁹¹ In a study conducted by Orbeta, Paqueo, and Siddiqi on the impacts of judicial reform in criminal case procedures on court congestion in the Philippines⁹², it was established that the Continuous Trial reform increased clearance rates by between 35–36 percentage points at the trial courts level. This particular study further revealed that at the case level, the Continuous Trial reform effectively reduces case duration by 55 days (14%) in cases recorded in the electronic courts case management system and 61 days (10%) in cases recorded in the Continuous Trial monitoring system. It increased the proportion of cases disposed in 180 days by eight percentage points (54%), and the proportion of cases disposed in 330 days by nine percentage points (41%). Specifically, it reduces the duration from receipt of case in court to pre-trial by 50 days, pre-trial to initial trial by 22 days, and trial duration by 57 days. It then concluded that from a policy perspective, the Continuous Trial reform has been an effective means of improving court efficiency for criminal cases.

Once again, the aforementioned data support the finding of the survey that since the implementation of the rules on Continuous Trial of criminal cases in 2017, there has been a steady increase in case disposition rates for trial courts up to the present. As a consequence, this high disposition rate will mean lower average caseloads for the trial courts since the possibility is

⁹⁰ Supra, Hodzic and Stawa, What can be said on clearance rate and disposition time, and some more relations?

⁹¹Ibid.

⁹² Supra, Philippine Institute for Development Studies (PIDS), International Initiative for Impact Evaluation (3ie); 3ie Impact Evaluation Report 133, February 2021.

greater that case outflow will be higher than case inflow instead of the other way around. Thus, the surge in case disposition rates and the reduction of caseloads in trial courts are clear indications that the rules on Continuous Trial are, indeed, effective in resolving the problem of delay in trial proceedings. This, in turn, will result in a swift and judicious delivery of justice in the country.

The people's direct experience is the main source of public satisfaction, trust, and confidence in the justice system of the country. This is often based on their perception of whether such institutions have performed in accordance with their expectations. Such perceptions may be subjective, but they reflect a certain reality based on people's observations and experiences. For this purpose, they usually consider the accomplishments of the courts in their primary role of dispensing justice as parameters for evaluating their performance. Hence, for each improvement in performance, there is a corresponding increment in the amount of satisfaction towards the court. This simply means that satisfaction in court necessarily translates to confidence. In the same manner, for every court failure, there is a reduction of the public satisfaction.⁹³ Thus, improvements in the court's performance increase the public's satisfaction and confidence in the justice system. Consequently, public trust and confidence regained by the judiciary will build respect for the law, promote peace and security, and give confidence to the private sector to invest and strengthen the democratic institutions thereby contributing to the country's socio-economic development and global competitiveness.⁹⁴ Three (3) major domains that affect public trust and confidence in the justice system of the Philippines, namely: (1) the conduct of practices of the justice system, (2) the changing values and expectations of the culture the system serves, and (3) the images of the system portrayed by media to the public. While it is true that changes in each domain are mutually reinforcing, the most important domain that affects the public's trust and confidence in the justice system is the performance of the courts in dispensing justice. In fact, the aspects of courts' impartiality/fairness, access/inclusiveness, speed/promptness, and integrity are the ones taken into primary consideration since a high level of assessment of these factors also translates to improved levels of public satisfaction and confidence in the justice system.⁹⁵

Based on the survey, all respondents are convinced that with the speedy disposition of cases due to the implementation of the current rules on Continuous Trial of criminal cases, the trust and confidence of the public in the criminal justice system will be restored. The timely disposition of cases will encourage the people to renew their trust and, at the same time, continue to trust the justice system, considering that the confidence of litigants in the system is anchored on the expeditious and impartial resolution of cases. The rules will speed up the wheels of justice and will prove and establish that

⁹³ National Survey On Users' Experience and Perception on the Judiciary, Supreme Court of the Philippines, Volume 1 Final Report, August 2006.

⁹⁴Ibid.

⁹⁵Ibid.

the courts are committed to seeing that justice is served. The people will have a notion that the courts are serious in performing their work for the prompt and efficient administration of justice. There is this common hope that when justice is delivered without delay, people will begin to believe that justice can indeed be attained. The people will have more faith in the justice system as well as in the rules of procedures. The people will have renewed faith in the criminal justice system when they feel that greater attention and prompt responses are being directed to address their grievances. Further, the prompt resolution of criminal cases will address the people's common notion of justice delayed being justice denied, and the impression that the Philippine justice system is slow will be refuted. This is primarily because immediate results give satisfaction whereas delays breed distrust and discontent.

It is important to emphasize that maintaining the trust and confidence of the public in the courts is integral to the credibility of the judicial branch. This trust cannot and must not be assumed. The court must establish and nurture public trust through its core responsibility of resolving disputes effectively and efficiently. Public perceptions of the court system are largely formed by the experiences of individual parties in individual cases, all looking to the court for prompt and fair resolution of their disputes. Guided by the principles of procedural fairness, courts can enhance public trust and confidence by treating every party – plaintiffs, victims, and defendants alike – with dignity and respect, and explaining the court process and court rulings in a timely matter. Trust and confidence are further enhanced through the transparent and consistent application of court procedures, timely resolution of court cases, and providing public information regarding the court processes, court services, and mechanisms for accessing them.⁹⁶ Public trust and confidence in the judiciary do not require a belief that all judicial decisions are wise or that all judicial behavior is impeccable. What they require is satisfaction that the justice system is based upon values of independence, impartiality, integrity, and professionalism and that within the limits of ordinary human frailty, the system pursues those values faithfully.⁹⁷ There is, however, this contention that the current rules on Continuous Trial of criminal cases will only temporarily address the issue on the “faith” of the people in the justice system. As long as the proportion of cases versus the number of judges is not addressed immediately, the objective of the rules will not be obtained. In fact, the difficulty of the courts in complying with the said rules will persist if the issue of case congestion will not be eradicated, if not reduced.

Court dockets are heavily and unjustifiably congested. Hundreds of thousands of cases remain pending for further action or resolution by the trial courts. The cases pending in courts keep piling up at an alarming rate, and this condition is to become worse, and the case backlog will increase

⁹⁶ National Association for Court Management (NACM): CORE: Strengthening Court Officials, Competency: Public Trust and Confidence. © 2021 All rights reserved;<https://nacmcore.org/competency/public-trust-and-confidence/>

⁹⁷ Chief Justice Gleeson, Murray, Public Confidence in The Judiciary. Judicial Conference of Australia, Launceston, April 27, 2002.

continuously unless judges are able to dispose of more cases through a systematic and sustained judicial reform program. In fact, the slow processing of old cases affects the progress of the newly filed ones. Consequently, some cases have incredibly taken as long as a generation to resolve. Court docket congestion deprives the courts of the essential element of time. The quality of justice is thus adversely affected.⁹⁸ The congestion of the courts' dockets deprives the courts of time. Judges need time to study, analyze, and research to come up with good, reasonable decisions. The quality of justice is, therefore, adversely affected by the congestion of courts' dockets, and there are not enough courts or judges to meet the demands of the job. This results in what is commonly termed as "*justice delayed is justice denied*", which clearly violates Article 3, Section 16 of the 1987 Constitution, which provides that all persons shall have the right to a speedy disposition of their cases.⁹⁹ Some skeptics also claim that improving court procedures is just one way of improving the criminal justice system of the country. They contend that a complete overhaul of the justice system is needed if a working, efficient, and effective justice system is to be realized. They submit that reforms in the country's justice system must start from the grassroots level, from the barangay, by strengthening the Barangay Justice System.¹⁰⁰ Additional mechanisms at the barangay level, aside from those provided under the law, must be installed in order to protect poor and vulnerable parties from the abuse of more politically and economically powerful opponents of the case.

G. KATARUNGANG PAMBARANGAY

While the *Katarungang Pambarangay* Law provides the appropriate forum for the resolution of minor disputes, some parties to a dispute do not give much importance to this screening mechanism because their ultimate intention is to settle their dispute in court. This then results in the filing of cases in court which, in turn, will contribute to the clogged dockets of the courts. It is suggested, therefore, that sanctions to disputants who fail to comply with the condition of prior conciliation, particularly the penalty that the offending party cannot seek judicial relief, should be strictly imposed. However, aside from improving the Barangay Justice System, meaningful reforms must also take place at the prosecution agencies, including the Public Attorney's Office, the law enforcement agencies, and the judiciary as a whole. It is worthy to note that the administration of justice in the Philippines is challenging, with many agencies and institutions playing critical roles. Reforms introduced in one institution usually affect others. Conversely, the impact of reforms in one institution may be weakened by

⁹⁸ *Supra*, Tadiar, Unclogging The Court Dockets.

⁹⁹ Explanatory Note, Senate Bill No. 1886 filed by Sen. Richard J. Gordon. SB 1886 is a consolidated measure of SBN 1359 filed by Sen. Gordon on February 18, 2020 and SBN 1353 filed by Senator Manuel M. Lapid on February 17, 2020. Its primary objective is to unclog the dockets of the Regional Trial Courts (RTCs) and to speed up the disposition of cases by raising the jurisdictional threshold of the second level and first level courts.

¹⁰⁰ Presidential Decree No. 1508, series 1978 otherwise known as the Katarungang Pambarangay Law.

the absence of reforms in another justice sector agency. While it is important to view each institution in the context of the sector, the administration of justice is a function shared by different institutions, and they play important roles in justice administration in particular contexts. Reforms introduced in one institution tend to have consequences for others. The justice system of the Philippines is a sophisticated network of government branches, agencies, and offices for dispute resolution, investigation, prosecution, police action, and correction and rehabilitation of offenders. No one government branch or office performs all of the above functions.¹⁰¹

Moreover, there are apprehensions that at present, the people's trust and confidence in the justice system is declining instead of deepening, because the present administration, for years, has promoted a culture of impunity and too much out-of-the-box means of resolving cases such as but not limited to the *Tulfo Court* and *Tokhang*, and the common *masa* has already bought into them. This cheap exploitation of the masses and insensitivity towards life, all at the expense of due process, is making a big dent in the trust and confidence of the people in the country's justice system.

The people are aware that the judiciary fulfils a special role in the state under the rule of law. As the guarantor of justice, a fundamental value in a law-governed State, it must enjoy public confidence if it is to be successful in carrying out its duties. The need for public support and confidence is also critical for the judiciary since, by virtue of its independence, it is not directly accountable to any electorate. Therefore, when the role of the judiciary is being challenged by the prevalence of extrajudicial violence and out-of-the-box means of resolving cases, strengthening the confidence in the judiciary represents a goal in itself.¹⁰² Some people likewise argue that the speedy disposition of cases is but one aspect of the Philippine justice system. Hence, the contention is that an improvement in the courts' dispensation of justice will not easily restore the public's trust and confidence in the system. This is because of the impression that the rich and powerful can easily escape from the clutches of the law, while the poor and the powerless are the only ones being prosecuted.

The justice system in the Philippines is premised on the notion that the rich and the poor are treated equally. The sad reality, however, as reflected by current events, is that access to justice is primarily based on how much a person can disburse. People without financial means remain in jail prior to trial because they cannot afford to post bail, resulting in higher conviction rates. Individuals who cannot afford to pay off court and administrative fines forfeit their gainful employment, sending them into an inescapable cycle of unemployment and hardship.¹⁰³ As such, there is this impression that the Philippines at present has two justice systems: one for the rich and

¹⁰¹ *Supra*, Background Note on the Justice Sector of the Philippines, ADB Report 2009.

¹⁰² Uusitalo, Kirsti, Andersson-Trontti, Jenny, Harakka, Katja, and Pyöriä, Matti: Team Finland (2019): How to maintain and increase public confidence in the Judiciary. Themis 2019: Judicial Ethics and Professional Conduct, Sofia, Bulgaria.

¹⁰³ EQUAL JUSTICE UNDER LAW: Ending Inequality in the Justice System, 2021. 400 7th Street NW, Suite 602 Washington, D.C. 20004; <https://equaljusticeunderlaw.org/overview>

another for everybody else. For hundreds of thousands of persons arrested every year, the difference between freedom and jail depends solely on socioeconomic status. A wealthy person can buy his freedom pending trial, keep his job, and live at home while preparing his defense. An accused who is poor must stay in jail for days, weeks, months, or years until his case is finally resolved. This is primarily attributable to the seemingly “unfair” bail system that is currently in place, considered to be highly discriminatory against the poor. Unlike the rich, the poor often end up in prison while awaiting trial because of their inability to put up money for bail. Moreover, others believe that the court system itself, because of the accused’s need for resources to defend his case in court, is outrightly militating against poor litigants. As a professor of Yale University pointed out, *“the courts are available in proportion to one’s ability to pay for their use.”*¹⁰⁴

In fact, if news reports are to be used as a basis, one may surmise that majority of those who are convicted of crimes belong to the lower echelons of society. While the poor face harsh consequences for running afoul with the law, it is starkly different from the rich and the politically well-connected. Take, for instance, the high-profile corruption cases for which congressional hearings were even conducted. Those hearings clearly established that crimes were committed, and they also showed strong evidence of guilt on the part of the supposed perpetrators. Until now, however, no cases have been filed yet, and in those instances where cases have been filed already, the trials are clearly tarrying. For those cases that have been resolved already, most of the accused, except for some “small fry,” have been freed or acquitted. This only shows clearly that the justice system in the country does not work. After years of court proceedings, the accused principals were acquitted either because the accused were found innocent of the charges, or the evidence presented was not enough to prove guilt beyond reasonable doubt. It is, therefore, doubtful if poor litigants who cannot afford an expensive and brilliant lawyer who has the ability to exploit strict rules of evidence to defend them and get them acquitted will have the same fate.¹⁰⁵ While it may be true that attributing the conviction of these accused to their poverty is not entirely accurate, the presence of a good lawyer on their side during the trial can spell a lot of difference in the outcome of a case, although there are a lot of other factors, like the weight of the evidence presented against the accused, that should be considered in analyzing a case. Nevertheless, the foregoing generalization captures what is seemingly the dominant opinion of the indigent accused about their conviction. Poor people may be guilty of crimes, but it is a reality that they cannot readily access the services of private lawyers because of the high cost of professional fees. Hence, most of the indigent accused end up being defended by a counsel de officio or an overworked public defender, who, unfortunately, is saddled by heavy caseloads and thus unable to make effective

¹⁰⁴ Robinson, Edward S. (1935). *Law and Lawyers* (Yale University, 1935), cited in Jorge R. Coquia, *International, Constitutional Law, and Human Rights*. Foreign Service Institute, Department of Foreign Affairs, January 1, 2000. ISBN-10: 9715520626; ISBN-13: 978-9715520621.

¹⁰⁵ Balangue, David L. (2016). *Justice - Philippine style*. *Philippine Daily Inquirer*, December 24, 2016. <https://opinion.inquirer.net/100256/justice-philippine-style#ixzz6rmVdgsMG>

representations in court.¹⁰⁶ Another issue that may affect the trust and confidence of the people in the country's justice system is the proliferation of drug cases. Precipitated by President Rodrigo R. Duterte's war on drugs, a majority of cases being filed before the courts are drug-related. However, instead of going into trial, most accused opt for plea bargaining just to avoid prolonged incarceration. This is despite of the fact that most of them have not been legally arrested. There is an unparalleled number of drug cases pending in courts, which causes a burden to the country's criminal justice system as regards to costs and efficiency in the speedy disposition of cases. Most of these cases involve poor litigants or those from the lower income class. As such, they cannot either afford to post bail for their provisional liberty or engage the service of good defense lawyers who will protect their rights and interests as accused. This is aside from added costs that a protracted litigation will require. Hence, instead of languishing in jail while waiting for their cases to be resolved by the courts, being separated from their loved ones, and, at the same time, suffering the inhumane conditions in detention facilities, a majority of the accused are resorting to plea bargaining.

Again, it is worth emphasizing that not all accused who availed of the plea bargaining are guilty of the offenses charged against them. They only take advantage of the opportunity because the long delays in the criminal justice system can mean that their cases may drag out for months or years, disrupting their lives and adding to their expenses and stress. Nobody knows for sure what to expect from a trial, and the possibility is always there that they may get convicted and suffer a heavier penalty than that offered during plea bargaining. Aside from this, as most of the accused are poor, with only basic functional literacy, and without any clout, they will agree to pretend and plead guilty because they believe they have so much more to lose if they will not.¹⁰⁷

Given the foregoing scenario, it is not very difficult to infer that these people may not completely trust the country's justice system. Opting for plea bargaining is just a way for these people to survive and to go on with whatever is left of their shattered lives. This does not indicate that they trust the justice system. Otherwise, they would have opted for a full-blown trial because they are confident that they will be exonerated since they trust the system because the system works.

The concept of rule of law is not an easy one to define. Definitions across countries differ due to varying historical circumstances, cultural experiences, and legal traditions. Generally, however, the rule of law refers to the existence of laws and rules on how society should function so that there is predictability in the way that things work, particularly in the realm

¹⁰⁶ Lopez, Maria Glenda S. (2014). *The Poor on Trial in the Philippine Justice System*. Thesis for her M.A. in Sociology entitled, "When the Poor is on Trial: A Social Psychological Interpretation", 2014.

¹⁰⁷ JUSTIA Law Portal, USA, May 2019. <https://www.justia.com/criminal/plea-bargains/reasons-to-accept-a-plea-bargain/>

of political governance. This implies that the government behaves in the manner prescribed in a fundamental law such as a constitution, that it promotes and protects the rights of citizens, and that government officials do not exercise their power indiscriminately and are held accountable for their actions.¹⁰⁸ The rule of law is a principle of governance in which all persons, institutions, and entities, public and private, including the State itself, are accountable to laws that are publicly promulgated, equally enforced and independently adjudicated, and which are consistent with international human rights norms and standards. It requires, as well, measures to ensure adherence to the principles of supremacy of law, equality before the law, accountability to the law, fairness in the application of the law, separation of powers, participation in decision-making, legal certainty, avoidance of arbitrariness, and procedural and legal transparency.¹⁰⁹

An effective criminal justice system is a key aspect of the rule of law, as it constitutes the conventional mechanism to redress grievances and bring action against individuals for offenses against society. An assessment of the delivery of criminal justice should take into consideration the entire system, including the police, lawyers, prosecutors, judges, and prison officers. The framework of the rule of law serves as the foundation for a democratic society. Its effect on the country's economic performance, social development, and integrity of infrastructure is pervasive. Otherwise stated, the rule of law is a cornerstone to the improvement of public health, the safeguarding of citizens' participation, security, and the fight against poverty. An effective rule of law reduces corruption, combats poverty and disease, and protects people from injustices large and small. It is the foundation for communities of justice, opportunity, and peace—underpinning development, accountable government, and respect for fundamental rights.¹¹⁰ According to the World Justice Project (WJP): Rule of Law Index for 2020¹¹¹, the Philippines ranked 91st across 128 countries worldwide and number 13 out of 15 countries in the East Asia and Pacific Region when it comes to adherence to the rule of law, with Myanmar at Number 14 and Cambodia at the bottom. In terms of criminal justice, the Philippines is Number 112 out of 128 countries worldwide, and again, Number 13 out of 15 in the East Asia and Pacific Region, with Myanmar at Number 14 and Cambodia at Number 15.

¹⁰⁸ Co, Edna E.A. Malaluan, Nepomuceno, Neame, Arthur, Manuel, Marlon and Musngi, Miguel Rafael V. (2010). Philippine Democracy Assessment: Rule of Law and Access to Justice. Action for Economic Reforms 2010, published International Institute for Democracy and Electoral Assistance (International IDEA).

¹⁰⁹ Department of Justice (DOJ): Philippines Development Forum (PDF) – Good Governance and the Rule of Law, May 13, 2011; Report of the Secretary-General, United Nations, The rule of law and transitional justice in conflict and post-conflict societies, 2004.

¹¹⁰ World Justice Project (WJP): Rule of Law Index for 2020, Philippines.

¹¹¹ The World Justice Project (WJP) Rule of Law Index® is the world's leading source for original, independent data on the rule of law. Now covering 128 countries and jurisdictions, the Index relies on national surveys of more than 130,000 households and 4,000 legal practitioners and experts to measure how the rule of law is experienced and perceived around the world.

In its Global Competitiveness Report for 2018¹¹², the World Economic Forum (WEF) ranked the Philippines 95th place out of 140 nations in terms of corruption; 123rd in terms of reliability of police and law enforcement agencies; 105th in terms of the independence of the judiciary; 100th in terms of efficiency of its legal framework; and 121st in terms of conflict-of-interest regulations. For its part, Transparency International's Corruption Perception Index placed the Philippines as the 111th most corrupt country in the world out of 180 nations evaluated. The foregoing data demonstrate that the rule of law in the Philippines is weak and its criminal justice system defective. A weak rule of law and an unresponsive justice system hinder economic development. Delays in resolving cases, the high cost of litigation, and the long and arduous legal process have diminished public trust and confidence in government and the justice system. Major reasons for the lack of responsiveness of the justice system include its fragmentation, the presence of archaic laws and rules, and low funding support.¹¹³ However, based on the results of the survey, all is not lost. The restoration and the concomitant improvement of the public's trust and confidence in the criminal justice system brought about by the positive effects of the rules on Continuous Trial of criminal cases will certainly facilitate the maintenance of law and order in the country. In fact, to "maintain law and order in the country" could be an understatement because all of the respondents are optimistic that with the implementation of the rules on Continuous Trial of criminal cases, the rule of law in the country will likewise improve and get stronger. Because of the encouraging results of the rules on Continuous Trial of criminal cases in the country's justice system, more people will now seek redress through the courts instead of resorting to extrajudicial means. Victims and offended parties will now bring their cases to courts and not try to settle their disputes on their own because of the assurance of prompt retribution. More people, knowing what their rights are and their remedies under the law, will now have the courage and confidence to submit themselves to the justice system so that their grievances can be properly ventilated and addressed, confident that the same will be resolved straightaway yet fairly. In this manner, they will be accorded restitution and closure which they rightfully deserve.

Criminals and offenders, for their part, will be dissuaded from committing more crimes out of fear of swift punishment. Similarly-minded felons will now think twice before committing an offense because of the possibility of quick justice. The speedy resolution of criminal cases will now serve as a deterrent to those intending to violate the law and, in more ways than one, gives a chance to those convicted of violating the law to face the consequences of their actions and redeem themselves in society. If the law is applied equally to all, people will have respect for the law and the government. They will be more inclined to follow the law because they will realize that they cannot escape punishment and the consequences of their action. They will observe their obligations and perform their duties to the

¹¹² The World Economic Forum (WEF) has paused the ranking of countries for 2019-2020 for the Global Competitiveness Report amid the coronavirus disease 2019 (Covid-19) pandemic.

¹¹³ National Economic and Development Authority (NEDA) Philippine Development Plan (PDP) 2017-2022.

government and others, fostering trust. People will strive in their undertakings because they know that their rights are respected and that their efforts will be rewarded. In short, people will be more responsible and respectful towards each other, promoting stability, peace, and order in society. In the end, society will flourish under the rule of law because people feel a sense of fairness and security in their society. If the people feel secure because their rights are protected, and if they see that the law is applied equally to everyone, they will be more productive. The quality of life will then become better for all.¹¹⁴

VII. EFFECTIVENESS OF THE CONTINUOUS TRIAL

This paper is an analysis of the rules on Continuous Trial of criminal cases, done in order to determine their effectiveness in resolving the inordinate delays in the disposition of cases pending before the trial courts, with the end in view of establishing the causal impact of these rules on Philippine criminal justice system. Survey questionnaires were distributed to the designated respondents and their responses were analyzed, together with the data obtained from the Supreme Court. Thus, to be presented in this Chapter are conclusions drawn from findings or answers to questions posed in this research, and the recommendations developed from the result of the study.

Almost all of the respondents are convinced that there is an inordinate delay in the resolution of criminal cases before the trial courts in the Philippines. They primarily cited the non-compliance by judges, prosecutors, and lawyers with the rules on Continuous Trial as the foremost factor for this delay. They specifically mentioned the common practice of piecemeal trial of cases, the frequent and unnecessary postponements of hearings, and the inadequate preparation of the prosecutor and defense counsels for the scheduled hearings as causes for the delay. They likewise mentioned the congestion of courts' dockets and the lack of courts and judges that will handle these cases; the lack of resources and personnel in courts which affect the courts' efficiency; the problems with the service of summons and subpoenas; the tardiness of judges, prosecutors, lawyers, and litigants in attending scheduled hearings; the delay or even failure of the prosecution to present object and documentary evidence on time; and that judges, prosecutors, and PAO lawyers are attending too many seminars or trainings resulting in the postponement of trials previously scheduled.

As a result of this inordinate delay, justice will be denied to those who deserve it because of the protracted proceedings. An accused who is innocent of the crime charged will stay in jail for years until his case is finally resolved because of his inability to put up money for his bail. When he is finally adjudged as innocent by the court, he will have already wasted much of his productive life in jail. People will be discouraged from going to court because of the length and expense involved, and the length of time it takes

¹¹⁴ Article 7 of the Human Rights Act: No Punishment Without Law.

to obtain justice. They will have reservations that courts can no longer protect and vindicate their rights. Trial delay will increase the number of remand prisoners and cause overcrowding in detention facilities. Delay in trial proceedings will result in the collapse of law and order as victims will try to settle their disputes on their own or resort to extrajudicial means, and the offenders will be encouraged to resort to more violent crimes since their criminal acts remain unpunished. A majority of the respondents are positive that the implementation of the rules on Continuous Trial of criminal cases, coupled with the compliance of all stakeholders, particularly the courts with these rules, will result in the speedy resolution of cases. They specifically mentioned that adherence with the guidelines pertaining to the oral Formal Offer of Exhibits, simultaneous arraignment and pre-trial, one day-one witness rule, and the specified period within which to decide cases will speed up trial proceedings which will subsequently result in the eradication of the problem in inordinate delay in resolving criminal cases.

Aside from addressing the problem of inordinate delay in the resolution of criminal cases, the implementation of the rules on Continuous Trial of criminal cases will also help improve case disposition rates and reduce average trial duration in trial courts. The speedy resolution of criminal cases will result in high case disposition rates in trial courts. High disposition rates, in turn, will mean lower average caseloads for the trial courts nationwide. Lower caseloads will mean lower case backlogs for trial courts since cases can now be resolved within a shorter period of time. With shortened trial durations, trial courts can now resolve cases efficiently and effectively. Almost all of the respondents concur that having a high case disposition rate in trial courts is an indication that the current rules on Continuous Trial is effective in resolving the problem of delay in the resolution of criminal cases. They are satisfied that the said rules bring about a swift and judicious delivery of justice. They are also in agreement that having a high disposition rate will mean lower average caseloads for the trial courts since the possibility is greater that case outflow will be higher than case inflow instead of the other way around.

All of the respondents are convinced that with the speedy disposition of cases due to the implementation of the current rules on Continuous Trial of criminal cases, the people's trust and confidence in the criminal justice system will be restored and maintained. The confidence of litigants in the judicial system is anchored on the expeditious and impartial resolution of cases. As such, the timely disposition of their cases will enable them to continue to trust the justice system. When justice is delivered without delay, people will begin to believe that justice can indeed be attained. The people will have renewed faith in the criminal justice system when they feel that greater attention and prompt response are being directed to address their grievances. Most of the respondents are likewise confident that the implementation of the rules on Continuous Trial of criminal cases will help maintain law and order in the country. With their trust and confidence in the criminal justice system restored, the people will now seek redress through the courts instead of resorting to extrajudicial means or violence. Convinced

that courts can vindicate their rights and protect their grievances, victims will now bring their cases to courts and not try to settle their disputes on their own because of the assurance of prompt retribution. Criminals and offenders, for their part, will be dissuaded from committing more crimes out of fear of swift punishment. The speedy resolution of criminal cases will serve as a deterrent to those intending to violate the law and likewise gives a chance to those convicted of violating the law, to face the consequence of their action and start anew thereafter.

VIII. CONCLUSION

There is an undeniably inordinate delay in the resolution of criminal cases before the trial courts in the Philippines, and this is primarily due to the non-compliance by all the stakeholders, particularly judges, prosecutors, and lawyers, with the rules on Continuous Trial. If this inordinate delay persists and remains unchecked, a breakdown in the criminal justice system of the Philippines is inevitable. The implementation of the rules on Continuous Trial of criminal cases will speed up trial proceedings which will subsequently result in the eradication of the problem of inordinate delay in resolving criminal cases. It will also help improve case disposition rates and reduce average trial duration in trial courts. High disposition rates will mean lower average caseloads for the trial courts nationwide. Lower caseloads will mean lower case backlogs for trial courts since cases can now be resolved within a shorter period of time. With shortened trial durations, trial courts can now resolve cases efficiently and effectively. A high case disposition rate in trial courts is an indication that the current rules on Continuous Trial is effective in resolving the problem of delay in the resolution of criminal cases. This means that courts will have lower average caseloads since case outflow will be higher than case inflow instead of the other way around. This will subsequently result in a swift and judicious delivery of justice.

With the speedy disposition of cases due to the implementation of the current rules on Continuous Trial of criminal cases, the trust and confidence of the people in the criminal justice system of the Philippines will be restored and maintained. The timely and judicious disposition of cases will convince the people to continue to trust the justice system. They will have renewed faith in the criminal justice system when they feel that greater attention and prompt response are being directed to address their grievances. The implementation of the rules on Continuous Trial of criminal cases will help maintain law and order in the country. The people will now seek redress through the courts instead of resorting to extrajudicial means or violence because of their trust and confidence in the criminal justice system. They will be convinced that the law is applied equally to all and that they cannot escape punishment and the consequences of their actions. People will strive in their undertakings because they know that their rights are respected and that their efforts will be rewarded. In short, people will be more responsible and respectful towards each other, promoting stability, peace, and order in

society. In the end, the country will flourish under the rule of law because the people feel a sense of fairness and security in it.

Thus, it is recommended the need for the amendment of Administrative Matter No. 15-06-10-SC - *Revised Guidelines for Continuous Trial of Criminal Cases* to include specific penalties for non-complying parties. The rationale for the proposed amendment is to ensure compulsory compliance with the rules and guidelines by the parties concerned, particularly the judges, in order to achieve a prompt and efficient resolution of criminal cases. Included in the amendment is the authority given to judges to impose hefty fines on lawyers who will not comply with the said rules.

Passage of more laws creating additional courts, amending *Batas Pambansa Blg. 129*, particularly in provinces or areas with large case dockets is also important. The rationale for this amendment is that increasing the number of courts in proportion to corresponding demographic growths and locating them in centers of population will help reduce the clogged dockets of courts and will facilitate the speedy disposition of cases. It will also provide for greater accessibility to courts by litigants, thereby allowing them to have equal access to courts just like anyone else. The law expanding the jurisdiction of the first-level courts to ease up the dockets of the second-level courts is another recommendation that aims to increase the jurisdictional amount in civil actions cognizable by the first-level and second-level courts.

The amendment of Administrative Matter No. 01-10-5-SC-PHILJA - *The Structures and Guidelines for the Institutionalization of Mediation in the Philippines*, and Administrative Matter No. 08-2-5-SC-PHILJA - *Organization, Powers and Functions of the Philippine Mediation Center (PMC) Office and Mediation Center Units*, including its Organizational Chart and Staffing Pattern, particularly on matters pertaining to the appointment of Mediators. It is humbly recommended that only lawyers should be appointed and may act as Mediators. The rationale for this recommendation is that with lawyers as Mediators, the discussions of issues for possible settlement will be more comprehensive and exhaustive since they can discuss the merits and demerits of the subject case, as compared to a layman who has limited knowledge of the law, which may pave the way for the speedy resolution of the dispute. This, in effect, will not only alleviate the heavy caseloads of lower courts but also provide more lasting solutions to the underlying causes of party disputes.

As it seems that there is no immediate end to the pandemic caused by the Covid-19 virus, the Supreme Court should take advantage of the current technology to improve the judicial system of the country by issuing a Circular authorizing all judges of the first and second-level courts to conduct fully-remote videoconferencing hearings regardless of their physical location in the country and to cover all matters pending before the courts, in both criminal and civil cases, whether newly filed or pending, regardless of the stage of trial, without need of prior authority from the Office of the Court Administrator. The rationale for this recommendation is that with this

authority given to them, the judges can now adopt a hybrid type of hearing – a combination of in-court trial and videoconferencing – depending on the circumstances or demands of the cases to be heard, without waiting for the approval from the Office of the Court Administrator which, at present, is rather difficult to obtain, if not comes very late. In such a way, any further delay of court action on cases pending before them can be avoided. Such an arrangement is also pursuant to the objective of the Supreme Court to maintain operational continuity of the courts and, at the same time, compliant with health and safety directives from the Department of Health.

Finally, with the recent pronouncement of Chief Justice Alexander G. Gesmundo that the Supreme Court plans to create new positions, such as Judicial Region Court Administrators and Trial Court Managers, to improve court governance and speed up the delivery of justice, the recommendation to decentralize the judiciary is hereby maintained. At present, the judicial system is highly centralized in the Supreme Court. All rules and changes in procedures must necessarily go through the highest court in the land, and these changes have been very slow, oftentimes taking years to develop. Even moves to address administrative concerns of local courts have to secure the approval of the Supreme Court. Decisions that can be more effectively handled in the regions, such as personnel and procurement of supplies, have to pass through the bureaucracy in the central offices, causing bottlenecks and unwarranted delays in the delivery of services to court personnel in the regions. Utilizing RCAO and Trial Court Managers as a tool of decentralization, it is expected that court personnel in the regions will be provided with better services, which should, in turn, result in better administration of justice to court end-users.

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